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AMERICAN INDIAN RELIGION UNDER ASSAULT: OPPOSITION TO THE PEYOTE FAITH

The University of Oklahoma PH.D. 1984

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AMERICAN INDIAN RELIGION UNDER ASSAULT: OPPOSITION TO THE PEYOTE FAITH

A DISSERTATION

SUBMITTED TO THE GRADUATE FACULTY

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degree of

DOCTOR OF PHILOSOPHY

By

CAROL MCDONALD HAMPTON

Norman, Oklahoma

1984

AMERICAN INDIAN RELIGION UNDER ASSAULT:

OPPOSITION TO THE PEYOTE FAITH

A DISSERTATION

APPROVED FOR THE DEPARTMENT OF HISTORY

By

Roy Gilbert

Norman L. Crockett

PREFACE

With a lengthy background dating from the Spanish conquest in 1521 to the present time, federal and state officials, Christian clergy and laity, and private organizations and individuals have challenged the veracity, validity and viability of American Indian religions. Much of that opposition has centered on apparent and obvious aspects of religious practices and belief, in particular, the usage of peyote as a sacrament in spiritual worship.

From the Spanish Edict of 1620 prohibiting the usage of peyote to current state narcotics laws classifying peyote as a narcotic American Indians have withstood harassment, confiscations, imprisonment, and defamations of their spiritual beliefs and practices. Hostility and antagonism from non-Indians has spread over all Indian religions, pan-Indian religious movements as well as individual tribal practices. Federal Indian agents, temperance leaders, state, county, and district officials, local groups have disrupted and prohibited American Indian religious ceremonies with or without the benefit of law. Opposition has often taken the form of a forced assimilation -- a forced acceptance of the dominant society's culture and beliefs. Promoters of assimilation of Indians

into Euro-American society have lobbied federal and state legislatures to prohibit all evidence of Indian spirituality.

With a two-pronged philosophical base set in sixteenth century European theories regarding the rights of conquered peoples and in a belief that Christianity is the only true religion, Euro-Americans have righteously attacked all evidence of differences from their own customs. Hostility to that which is different or alien continues to the present day.

The passage of the American Indian Religious Freedom Act in 1978 documented examples of antagonism as well as simple ignorance which has limited American Indian spiritual practices. Legal actions since 1978 suggest that the American Indian Religious Freedom Act can offer no guarantee of cessation of this religious oppression.

This study seeks to affirm the legal rights of Indians to constitutional protection of their religious practices as well as to their beliefs. It also attempts to assess the sources of opposition to Native American spirituality and to determine a means by which American law might protect the religions of all American citizens.

In the process of researching and writing this study I have incurred many debts. I have received aid, information and moral support from many people. I would particularly like to acknowledge the kind, patient, and helpful advice I

have received from my good friend and professor Arrell Morgan Gibson, who directed this study; my old friend, professor, and colleague, J. Clayton Feaver, who taught me a love of religious philosophy; and Ronald K. Snell, who has read and offered advice on almost every article I have written and paper I have presented. My never-ending gratitude goes to each of them.

I would also like to express my appreciation to those who aided my research -- the staffs of the National Archives and of the Smithsonian Institution in Washington, D.C.; all the patient members of the staff of the Indian Archives and Newspaper divisions of the Oklahoma Historical Society; Jack Haley, Alice Timmons, John Ezell, and Darryl Morrison of the Western History Collections of the University of Oklahoma; and the many people who found books, manuscripts, offered advice and companionship during my tenure as a Francis C. Allen Fellow at the Center for the History of the American Indian at the Newberry Library in Chicago, particularly Helen Tanner, who with her mother established the fellowship, Father Peter John Powell, Henry Dobyns, Herb Hoover, Dave Miller, and John Awbrey.

One group of people provided me with their own intimate knowledge, parts of which I have chosen, in deference to their wishes, to reserve. Members of the Native American Church in Oklahoma and elsewhere have shared their knowledge with me and I appreciate their

generosity, particularly my fellow tribal members and Douglas Long, President of the Native American Church of North America.

I would like to thank my friends and colleagues who assisted this project in many ways from sending newspaper clippings of arrests for peyote possession from all over the country to placing the manuscript on soft sectored diskettes. Their very practical support has been invaluable.

I would like to offer my appreciation to the members of my committee for their help and advice, H. Wayne Morgan, Norman Crockett, Paul Glad, J. Clayton Feaver, Ronald K. Snell, and Arrell M. Gibson. Finally, I wish to acknowledge my gratitude to my family. I recognize my debt to them for their forbearance during this lengthy project. Thank you for managing without me. It was for you that I began and persevered.

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CHAPTER I

INTRODUCTION

Religious freedom! People have an abstract idea that religious freedom means that all people have a right to believe as they wish concerning their individual or community answers to ultimate questions -- questions such as: What is my individual or group destiny? How can I or we fulfill our ultimate destiny? What is my or our relationship to the Creator and the Supernatural? What is my or our relationship to the totality of creation other than myself or my community? People all over the world have asked these questions in all ages whether they be of the Old Testament trying to fulfill their destiny to Yahweh or Jehovah; Cheyennes praying to Maheo; Christians seeking guidance and forgivness from God, the Father, Christ, the Son, and the Holy Ghost; Lakotas thanking Wakan Tanka, the Great Mystery; Brahman or "the Cause of All Things" as expressed in the Upanishads of India; the great teachers, Buddha and Confucius, directing people in China and India to ultimate knowledge; or Caddos crying to their Caddi Ayo, the Great Chief Above. In all places and in all times

people have recognized a need to believe in a Supreme Being.

A need to believe in a Supreme Being and the freedom to believe and practice such a belief seems harmless to society at large and, yet, there have been centuries of discord over the freedom to believe in a Supreme Being or First Cause and the corresponding practice of such beliefs. In the United States the framers of the constitution and delegates sitting in convention addressed the question of religious freedom in the first amendment to the constitution which states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ." and almost a century later when the states ratified the fourteenth amendment which extended that guarantee of religious freedom to the states, declaring in Section One: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States . . ." and in Section Five: "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

Some citizens of the United States, however, have found that such constitutional guarantees of religious freedom were limited to a right to believe, but not a right to practice the tenets and ceremonies of their religion. A lengthy list of decisions in both federal and state courts have denied the religious belief of Mormons to

practice polygamy,[1] denied and then affirmed the religious belief of Amish people to educate their children in their own schools,[2] as well as many cases involving American Indians and their religious beliefs concerning hair length,[3] possession of sacred objects including eagle and migratory bird feathers, holy land sites,[4] and the possession, transportation and ingestion of the cactus, peyote.[5]

Many American Indians feel and think that their religions, whether traditional tribal beliefs and ceremonies or inter-tribal religions such as the Native American Church, have been suppressed, abridged, and even prohibited. They point to edicts and proclamations

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[1]Reynolds v. United States, 98 U.S. 145 (1878); Davis v. Beason, 133 U.S. 333 (1890).

[2]Wisconsin v. Yoder, 406 U.S. 205 (1972).

[3]New Rider v. Board of Education, 480 F. 2d. 693 (10th Circ.) cert. denied 414 U.S. 1097 (1973); Hatch v. Goerke, 502 F. 2d. 1189 (10th Circ. 1974).

[4]Sequoyah v. T.V.A.. 620 F. 2d. 1159 (6th Circ.) cert. denied 449 U.S. 953 (1980); Badoni v. Broadbent, 452 U.S. 954 (1981); Fools Crow v. Gullet, 541 F. Supp. 785 (D.S.D. 1982) No. 82-1852 (8th Circ. May 10, 1983); Northwest Indian Cemetery Protective Association v. Peterson, 565 F. Supp. 586 ND. Cal 1983) App docketed No 83-2225 (9th Circ. July 22, 1983).

[5]People v. Woody, 61 Cal 2d 887, 39 Cal Rptr 912, 394 P 2d. 813 (1964); State v. Whittingham, 19 Ariz. App. 27, 504 P 2d. 950 (1973), cert. denied, 417 U.S. 946 (1974); State v. Soto, 21 or.. App. 792, 537 P 2d. 142 (1975); Whitehorn v. State, 561 P 2d. 142 (Okla. Crim. App. 1977).

promulgated by early Spanish missionaries, including the Edict of 1620 prohibiting the use of peyote,[6] as well as provisions in the Puritan code of conduct pronounced soon after the arrival of English Puritans in 1630. European missionaries, while recording descriptions of native ceremonies and traditions, quickly attempted to supplant them with their form of Christianity.

During the nineteenth century, officials in the Bureau of Indian Affairs, United States Senators and Congressmen, and private individuals continued the practice of disrupting American Indian religious practices culminating in the restrictions placed on various reservations in the 1880s against tribalism, including ceremonies and religious. And the situation has changed little in the twentieth century.

For most American Indians, United States citizenship came in the twentieth century with the allotment in severalty of their reservation lands. For those Native Americans whose tribal land was still held in common United States citizenship came in 1924 with the passage of the Indian Citizenship Act, perhaps as a reward for their active service in the First World War. American Indians note that they are citizens of the United States and of the states in which they reside and yet they realize that they have received little protection of their constitutional

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[6]Archivo General de la Nacion (Ramo de Inquisicion, tomo 289, Mexico City).

right to a free exercise of their religions.

Recognizing this lack of religious freedom Congress took the power granted by the Fourteenth Amendment to enforce constitutional rights by appropriate legislation and passed the American Indian Religious Freedom Act which was subsequently signed into law by President Jimmy Carter on August 11, 1978:[7]

> That henceforth it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.

What has caused abridgement of American Indian religious practices necessitating the passage of an act expressly for the protection of American Indian religions? What beliefs on the part of the dominant society have compelled religious oppression? Answers to these questions vary depending on the particular aspect of American Indian religion under scrutiny as well as the historical period in which opposition arises, but one idea dominates -- the ethnocentric notion that the oppressor is always right and the dominant religion -- Christianity in the case of the United States -- is the only true religion.

A corollary to the question of causation of religious

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[7] 42 U.S.C. 1996, see Appendix.

oppression is the question of the effect of the American Indian Religious Freedom Act on the dominant society. Was and is such an act necessary? Will this act alleviate problems or just be another statute on the books that state and federal officials, private groups, and individuals will ignore in their efforts to destroy something alien, something they little understand -- a religion, a way of belief and worship, different from their own? The record of the last six years would indicate that the dominant society in the guise of federal officials, local law enforcement officers, newspaper reporters and editors and much of the public, urban and rural, have remained steadfast in their opposition to American Indian religious beliefs and practices that require access to sacred sites and the possession and use of holy objects when those objects differ from the holy objects of the standard religions.

All Native American religions have been the subject of denigrations and prohibitions but public and private opposition to the peyote religion has frequently occupied the forefront of a more general religious antagonism. Peyote -- perceived both as a "magical cactus"[8] and a

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[8]Fernando Benitez, trans. by John Upton, In the Magic Land of Peyote Austin: University of Texas Press, 197[illegible], passim.

"diabolical root"[9] -- has long struck a chord of dread and fear in the hearts of Christian missionaries, zealous reformers of the Progressive period, local sheriffs, and narcotics agents. Few have recognized the symbolic character of peyote as sacrament in an American Indian religious service as performing a function similar to bread and wine as sacraments in Christian religious services of the Holy Eucharist. Few have realized that peyote has an ancient record of spiritual usage by American Indians.

On the contrary, opponents of the peyote religion have focused on the mild hallucinogenic quality of the cactus and its use as the central force and sacrament of a Native American religion. From early Spanish missionaries to twentieth century temperance leaders, Indian religious spokesmen have centered on the use of peyote as a divine sacrament within a religious ceremony. Government officials, whether federal, state or local, have concentrated their opposition on the hallucinogenic property of peyote ignoring its ceremonial use. Christian leaders and government officials have agreed in their doubt of the sacredness and longevity of peyote as sacrament, claiming that American Indian usage of peyote reflects a desire for drug-induced euphoria, a contention which ignores the

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[9]Vincenzo Petrullo, The Diabolic Root: A Study of Peyotism, The New Indian Religion Among the Delawares Philadelphia: University of Pennsylvania Press, 1934, passim.

bitter reality of the taste of peyote and the quantity required to achieve visions.

This religion, now known as the Native American Church, centering on peyote as a sacrament, however, does have a long history resting on peyote usage in ceremonies during pre-Columbian times. Although the structure of the Native American Church has changed and many more tribes have accepted this form of worship than in prehistoric times, the religion, itself, is grounded in those rituals practiced by tribes living along the coast of the Gulf of Mexico west of the Red River delta into the northern Mexican desert and south to the lands of the Aztecs. Those tribes have a history of peyote use within a larger ceremonial context.

In the tribe known today as the Caddo Indian Tribe of Oklahoma there remains still a remembrance of a tribal birth or beginning in a home deep within the earth. In this place the component tribes of the Kadohadacho and the Hasinai lived for a long time learning and growing, at peace with all their kin -- humans, animals, plants, and inanimate objects. They lived as one people.

Eventually, one man allowed his voice to rise above that of others in councils suggesting a search for a better life for the people. The people accepted his suggestion for it seemed good to them although they found no displeasure in their life as it was. The leader,

however, sought the light -- the one thing missing from their life. At length, after much walking, they found a way from their old homeland to the surface of the earth. They found themselves climbing upward through a cave, following their leader. Moon, their leader, was the first to come out of the earth through the cave and walk into the sunlight. He carried with him a pipe, fire, and a drum. Close behind him climbed a woman bringing other necessities from their old world to their new home -- seeds of pumpkin, squash, corn, beans, and, some say, a peyote cactus.[10]

Others followed until many of the animals, humans, plant seeds, and other objects had emerged from darkness into the light when one -- maybe a coyote or maybe a wolf -- closed the entrance and all the rest of the people and animals and plants and inanimate objects remained within the earth. Those who had come into the light were sad to lose their sisters and brothers and they cried for many days, their tears making a lake. This place which Caddos call chakaning, the place of crying, exists today as Caddo Lake, situated on the Texas-Louisiana border. It was known formerly as Sodo Lake, according to some Caddos. Others indicate their place of emergence into the light farther to the southeast where the Red River joins the

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[10]Lyman Kionute (Caddo), personal interview, Caddo Cultural Center, Caddo County, Oklahoma, June 19, 1979.

Mississippi.[11]

The Caddos had come upon the earth bringing with them those things that they thought were most important to their survival as a people in the new world. They carried sacred objects -- fire, a drum and a pipe, peyote, and seeds to plant. Thus, the people known as Caddos left a homeland of darkness to emerge into a world of light mixed with darkness. But they remember their old home and revere it, calling it ina, which means "mother," and they return to that mother-home when they die.[12]

Although the Caddos have lost much of the sacred traditions of earlier times before European diseases devastated the component tribes of the two great confederacies, they have retained symbolic representations of their emergence upon this earth. Today, in the 1980's, every evening dance of the Caddos begins with a special symbolic dance in which that emergence is recreated. Several men carrying the drum are followed by all the people singing of their creation as a nation and circling a sacred fire burning brightly in the middle of the dance ground. As they followed the drum onto this earth, they follow the drum today remembering their origins.

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[11]George Dorsey, Traditions of the Caddo, Publication 45 Washington, D.C.: Carnegie Institution of Washington, 1905, pp. 7-19.

[12]Elsie Clews Parsons, "Notes on the Caddo," Memoirs of the American Anthropological Association, LVII, pp. 1-5.

As Caddos once kept a communal and sacred fire in which every family shared, today Caddos dance the drum dance around a fire symbolizing sacred rituals of their past. Although they no longer use the sacred pipe, Caddos utilize smoking as a blessing in which they gather smoke from the fire with a fan or their hands and bring it toward themselves or one they wish to bless or purify to keep them safe from evil or harm.

As Caddos have retained symbolic manifestations of an earlier sacred life, so have they kept representative plants and vegetables from their life deep within the earth. Vegetables form an important part of Caddo ceremonial feasts. Pumpkins, squash, beans, and corn along with grape dumplings appear in their season at every ceremonial dinner whether it memorializes the dead, celebrates a holiday, cements the decisions of a tribal council meeting or brings to a close a meeting of the Native American Church.

Peyote also accompanied Caddos on their journey from their old home deep within the earth to the surface of the earth. Caddos remember no time before they had peyote.[13] The cactus is as ancient to them as any of their traditions although the manner of their use of the cactus has changed over time from being one of several sacred plants used in

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[13]Kionute, personal interview.

rituals and ceremonies to its central place as a sacrament in the services of the Native American Church.

Other tribes remember the coming of peyote much later, a long time after their creation as a people. To all of them peyote came to them as a sacred gift from a Supreme Being.[14] Participants in the prayer meetings of the Native American Church believe that God or the Great Mystery gave peyote to American Indians as their own divine sacrament, sacred to them only:[15]

> This legend has been told from generation to generation from earlier days up to the present time.
>
> There was a war between the Apache Indians and the Spanish, long time ago. This war took place near the border of Old Mexico in the state of Texas. The Spanish captured the Apaches and among the Apaches were a few women that escaped the Spaniards. These women were on their way back to the camp of the Apaches. These women were out on the plains of Texas. They were out for a few days and on their way there they were starved for they did not have any food. The women became very weak and could go no farther and so they fell on the ground. While the women were lying on the ground too weak to move, there came a vision from God to one of the women. In this vision God told this woman to stretch her arm out and she did so, and when she stretched her arm out she dropped her hand on an herb known as peyote. God told this woman that she had her hand on something to eat and told her to get it and eat it, for it would give her strength and build her body up and she would find the way home to her people.
>
> The women ate of this herb and felt their hunger

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[14]Don Chaino Akeabo (Kiowa), Past President and Chairman of the Board of the Oklahoma Conference of the Native American Church, lecture, University of Oklahoma, Norman, Oklahoma, December 5, 1978.

[15]Kelly Yellowhead, "Indian-Pioneer History," XI, pp. 599-600, Indian Archives, Oklahoma Historical Society, Oklahoma City, Oklahoma.

> cease. There was a great field of this herb where the women were. God told her in this vision to take some of that herb, the peyote, to her people and for them to use it, and so she took some of the peyotes to her people.
>
> She got back to her people safe and found her people alright. She told her people about the hardship she had and about the experience she had with God. That is how the peyote religious worship started and is still carried on.

According to native tradition, peyote came to American Indians as a gift of life from a loving God, and the herb, or cactus, remains today as a gift of life, but in a different sense. Tribal spokesmen claim that in the nineteenth and twentieth centuries the ritualistic usage of peyote has helped many American Indians retain their Indianness, their special relationship with the Great Mystery or the Great Chief Above, and their own tribal traditions.

Another version of the origin of peyote, or how it came to American Indians is presented by Indian religious leaders to illustrate how, in their view, the Divine Mystery, through peyote, aids and teaches American Indians the right way to live. In this story a man has run away from his people and become lost:[16]

> And his feelings were not right and he was worried and was bothered about some things and just wandered

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[16]George and Mabel Harris, interviewed by Boyce Timmons, T-199, LI, 1967, pp. 2-3, Doris Duke Oral History Collection, Western History Collections, University of Oklahoma, Bizzell Memorial Library, Norman, Oklahoma.

> off to this place where this peyote medicine grows and they run out of food and water. He was tired, so, he just set down. Couldn't go on any further. A voice came to him during the stage of the day he got that far, and told him to pick that plant, and to partake of it and he will find water. So, he done that very thing what that voice told him to do and he found some more. He just kept on till he got enough that medicine to get plenty of water. And he woke up next morning a different man. During the night, well, he went through some experiences of himself -- to ask our Creator for forgiveness which had been done in the night and next morning felt relieved and better. So he brought some of this back to his people and told 'em what it was and how it had done him and so that's where this medicine started from -- as I was told by some older people. . . .
>
> . . .he began to think about himself as a person -- inner self. And he seen himself as a pitiful man, you know. He was runnin' -- instinct told him to -- wasn't no use to run, you know. Go back to your people. And you ask God to forgive you and He'll forgive you. Ask Him. And so he realized that he did see his self and he didn't know what he was runnin' for, really. And the saying goes that it doesn't matter what you are, how you may look, how you dress or anything. But that is one religion you can come in -- and you should partake of the medicine and you will see yourself as a person, just see yourself as a person. And that's this man's experience there and he took this medicine to his people and he told 'em that. That they could eat this medicine and you goin' to learn to love, to understand your fellowman.

Learning the right way to live, or following the Peyote Road, is an important part of this religion. Learning to follow that road becomes an individual concern between each worshiper and his deity, as this legend so aptly suggests.

Another aspect of traditional American Indian belief and practice appears in this story as well as in the preceding one. Sharing individual good fortune is an integral component of American Indian life both in past and

in present times. An important aspect of each theory concerning the divine gift of peyote to American Indians is the second gift by the individual to his or her community. The protagonist of each legend recognizes the significance of the gift and that it is a gift to all the people. The Great Mystery offered peyote to a community through an individual.

A third peyote legend describes more than peyote coming to the people. In this story, related by a Kiowa-Apache, now known as the Plains Apaches of Oklahoma, a little boy started the Plains ritual from the ideas he learned from peyote. Peyote taught him a communal ritual.

This little boy and his mother had gotten lost in the mountains:[17]

> . . .she just gave up. She was going to die. And the little boy play around. She was laying there, and he come back and nurse and then he go off. She's dying, you know, and this boy dug up some peyote and start eating it. And there's water in it. And he got affected and then God has something to do with it. So he give it to his mother. She start eating it, and boy, it just perked her up. She had vision. She saw in that vision -- she saw her peoples -- and something said, "Tomorrow you just g o down there and you'll see your peoples." Something told her. Came a rain that night. All the water she can drink -- it was dry. Next morning they went up on the hill. Sure enough, them peoples have move in down there, put up their tents. She went down there to them peoples. And they brought this peyote. He was just a little boy then. And they brought this peyote. . . . After she got up she went ahead and

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[17]Ray Blackbear, Interviewed by Julia A. Jordan, 1968, Doris Duke Oral History Collections, T-184, XXXIX, pp. 8-9.

> she gathered a lot of it. She use it for food and water. That's how God mean it, I guess. That's what they believe. . . .

Thus far the legend differs little from many others. This story, however, takes the beginnings of peyote a little further.

> . . .but then after that they put up a tipi, and he went in there by himself, and pretty soon another-time they see that another guy fellow see that and went in there and join him, and he's a drummer. And next guy that came in he be a fire chief. He build a fireplace. Pretty soon another guy come. Pretty soon it got to be what it is. . . . And that's how it came about to be a church. You can't play with it.

In the church of this legend the Great Mystery communicates through peyote with the aid of fire and a drum -- necessary adjuncts of most American Indian rituals.

These three legends taken togther demonstrate the principal functions of peyote -- powers of healing illness and weakness, revelatory knowledge through communion with a divine presence, and guidance along the peyote path of correct behavior. All of these functions are common to traditional practices and religions of American Indians generally, although emphasis may differ from one tribe to another.

In each legend related above, the tribesman tells a story of a gift from a supernatural being. American Indians believe that God gave peyote to them alone. This belief contains twin aspects of equal importance -- the

sanctity of the gift and the specificity of the receiver. That the gift -- peyote -- is sacred each of the legends has amply described and attested. The third legend illustrates another important feature -- the founding of a religion -- a religion recognizable to non-Indians, although non-Indian opponents persist in terming the religion a cult in its definition as "a religion regarded as unorthodox or spurious."[18]

Through the twentieth century development of American Indian law regarding religion, the dominant society, as expressed in its court systems, has accepted the validity of the Native American Church as a religion. Legal acceptance has not, however, guaranteed actual tolerance, as continuing legal battles attest. Even when American Indians win religion cases in courts, harassment, disruption of rituals and ceremonies, confiscation of sacred objects, and barriers to access to sacred sites persist. American Indians have learned through experience that they have the freedom to believe but not the freedom to practice their religions.

Why do the problems continue? Non-Indians have been slow to learn tolerance and respect for American Indian customs, traditions and religions. Non-Indians have noticed only the strangeness, the differences, not the

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[18]Webster's New Collegiate Dictionary Springfield: G. and C. Merriam Company, 1980, 274.

similarities to their own beliefs, although, admittedly, the differences are fundamental. They abound in religious practice as well as in religious beliefs. Christianity, the dominant religion, is a commemorative religion, as is Judaism. Both Christians and Jews trace their origins and remember certain events in specific ceremonies such as Hannukah and Christmas, Easter and Passover. American Indian religions, however, are continuing and experiential -- participatory religions to a much greater extent than Christianity. American Indians participate in their religions as a part of an ongoing process of creation, not merely observant of the process but an involved and integral part of a constant and consistent relationship with all other parts of creation.

These differences have made it difficult for non-Indians to credit American Indian religions with validity. It is unlikely that the American Indian Religious Freedom Act will succeed where the First Amendment to the United States constitution has failed to create in non-Indians an awareness, respect or tolerance for other religions markedly different from their own. As the 1979 Report of the Federal Agencies Task Force pursuant to the American Indian Religious Freedom Act stated:[19]

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[19]Federal Agencies Task Force, Chairman, Cecil D. Andrus, Secretary of the Interior, American Indian Religious Freedom Act Report, P.L. 95-341, Washington, D.C.: U.S. Department of the Interior, August, 1979, pp. 7-8.

> The most critical aspect of past federal treatment of Indian religious activities, practices, and sacred locations is that abuses have for the most part arisen from ignorance or misunderstanding on the part of the non-Indian. This treatment exemplifies what can happen to a religious minority when its tradition is radically divergent from that of a majority in a society.

The ultimate success or failure of the American Indian Religious Freedom Act and the First Amendment to the United States constitution may well depend, in large measure, upon Native Americans changing the climate of popular opinion -- educating local authorities, elected and self-styled, to the authenticity of American Indian religious and the merits of a pluralistic society in which many cultures, traditions, customs, and religions can co-exist to the benefit of all:[20]

> Fortunately, there are no major theological barriers to confront but only the lack of precise knowledge, coupled with a lack of respect which such ignorance brings. In order that the progress already made be used as a cornerstone for enduring and fundamental changes, it is necessary to probe deeper into the theoretical gulf which presently separates the Indian religious tradition from that tradition which is commonly accepted by the non-Indian majority. Only when some of the assumptions and presuppositions are clarified and each side can understand and communicate with the other can true understanding occur to prevent future conflicts in this delicate area of religious practice and freedom.

American Indians have long been accustomed to at-

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[20] Ibid., p. 8.

tempted co-existence with a dominant society that would eradicate tribal customs, traditions, and religions. For American Indians the entire controversy can be reduced to a simple concept, a concept expressed by Frank Takes Gun, a past president of the Native American Church of North America: ". . .all we ask is that we be permitted to worship God in our own way."[21]

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[21]Frank Takes Gun, Letter to the member chapters of the Native American Church of North America, n.d., collection of the author.

CHAPTER II

ANCIENT TRADITIONS

Early explorers in the Americas noted that native inhabitants ritually used many local plants and others acquired by trade. Native American societies placed various leafy plants, several species of mushrooms, tobacco, and cacti, including peyote, high in their sacred and ceremonial pharmocopeia. In the value native inhabitants of the Americas placed on plants, particularly those which produce mind alterations or visions, they join humans all over the world.

Archaeologists and anthropologists have found evidence of ceremonial use of narcotic plants: opium from poppies in ancient Minoan societies; cocaine from coca leaves in prehistoric Inca rituals; sacred mushrooms of the Middle Ages in Europe; and the use of plants for enlightenment in ancient India. In addition, people of classical Greece and Rome made ritualistic use of wine from fermented grapes.[1] Evidence of religious use of psychoactive plants has also been preserved in literature. Most of our knowledge of pre-first century B.C. religious activity in northern India is contained in the Veda in the songs or poems dedicated to the plant-deity, Soma. These songs

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[1]William Emboden, Narcotic Plants. New York: Macmillan Publishing Co., Inc., 1979, pp. xiv-xv.

describe a ritual of communion with a diety achieved by drinking the juice of an unknown plant identified only as Soma.[2]

Halfway around the world native inhabitants of the Americas also utilized psychoactive plants in religious rituals. Archaeologists have unearthed stones in the shape of a mushroom, suggesting the existence of another plant-deity worshipped approximately 3,500 years ago in Guatemala. By 1969, botanists had identified twenty species of psychoactive mushrooms in four genera -- Psilocybe, the most important, Conocybe, Panaeolus, and Stropharia.[3]

Mushrooms were only one of several plant forms consumed by the native inhabitants of the Americas. Many Native Americans smoked cannabis in the form of marijuana, but cannabis as hemp was used by Chinese more than 3,500 years ago and it was well known throughout the Orient in antiquity and throughout the world today.[4] Fray Bernardino de Sahagún, who arrived in New Spain in 1529, described many different herbs or plants with psychoactive properties used by the Aztecs. To name only a few he listed: Coatl

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[2]M. Hiriyanna, The Essentials of Indian Philosophy London: George Allen and Unwin, Ltd., 1949, p. 9.

[3]Richard Evans Schultes, "Hallucinogens of Plant Origin," Science, CLXIII (1969), pp. 246-247.

[4]Ibid., p. 247.

Xoxouhqui or Ololiuhqui, Peiotl, Tlapatl, Tzizintlapatl, Mixitl, Nanacatl, Tochtetepon, Atlepatli, Aquiztli, Tenxoxoli, Quimichpatli. He also listed certain healthful mushrooms by their Nahuatl designation, a language spoken by Aztecs: Tzontecomananacatl, Xelhuaznanacatl, and Chimal, among others.5

Sahagun was the first Spaniard to describe native use of peyote under the Nahuatl name -- Peiotl. Shortly after his arrival in New Spain he enlisted the aid of several young native Nahuatl speakers and trained them to be his collaborators. In his manuscript, "Historia General de las Cosas de Nueva Espana," translated as the "General History of the Things of New Spain," Sahagun described peyote thus:6

> This peyote is white and grows only there in the north region called Mictlan. On him who eats it or drinks it, it takes effect like mushrooms. Also he sees many things which frighten one, or make one laugh. It affects him perhaps one day, perhaps two days, but likewise it abates. However, it harms one, troubles one, makes one besotted, takes effect on one.
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> "I take peyote; I am troubled."

5Charles E. Dibble and Arthur J.O. Anderson, trans. from Nahuatl to English, Florentine Codex: General History of the Things of New Spain by Fray Bernardino de Sahagun, mss. of the Biblioteca Medicea-Lorenziana Palat (Santa Fe: The Schools of America Research and the University of Utah, 1961), Monographs of the School of American Research and the Museum of New Mexico, Book 10, Chapter 7, passim.

6Ibid, Book 11, p. 129.

Discussing medicinal uses of peyote, Sahagun writes: "It is a fever medicine. It is eaten, it is drunk moderately, just a little."[7]

Botanists have more recently designated peyote as Lophophora williamiamsii, Lemaire (Coulter), Lophophora williamsii, Crestatta, Lophophora williamsii, Lewinni, and Lophophora williamsii, Deforma after having assigned it to the species Echinocactus williamsii in 1845, re-classifying it in 1888 as a new species of Anhalonium, and finally definitively identifying it in 1892.[8]

Scientific investigations have determined that peyote contains several alkaloids, the number increasing with each new study. Of the fifteen alkaloids counted most recently, several are psychoactive including anhaline, anhalamine, anhalonidine, anhalidine, lophophorine, pelletine, anhalinine, anhalonone, as well as the most well known -- mescaline. Each of the alkaloids acts and interacts simultaneously with the others, some having a depressive action while others stimulate the brain.[9] Alkaloids, generally, have a bitter taste and are physiologically active organic,

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[7] Ibid., p. 129.

[8] Schultes, "Hallucinogens of Plant Origin," p. 250; for a definitive botanical analysis of peyote see: Edward F. Anderson, Peyote: The Divine Cactus (Tucson: University of Arizona Press, 1980).

[9] Ibid., pp. 250-251.

basic substances found in plants.

Investigators, professional and amateur, have concentrated their studies almost entirely on mescaline, although it is only one of several with hallucinogenic properties. Laboratory tests suggest that mescaline is probably responsible for color visions, some of which are spectacular when peyote is ingested, whether in a laboratory or in a religious ritual. Other alkaloids provide auditory or tactile sensations.

Further, several studies using mescaline have been conducted on abnormal personalities with a view towards medicinal usage for the mentally ill patient.[10] These scientific experiments offer little insight into the nature of peyote, itself, with one major exception -- none of the studies proved to the scientists that peyote was addictive or intoxicating in that it neither stupefies nor does it diminish mental control, nor does it create physical dependence or symptoms of withdrawl.[11] When students of a peyote religion have experimented with the cactus, peyote,

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[10]E. Guttmann and W. S. Maclay, "Mescalin and Depersonalization," The Journal of Neurology and Psychopathology, XVI (1936), pp.193-211; Sanford M. Unger, "Mescaline, LSD, Psilocybin, and Personality Change," Psychiatry, XXVI (1963), pp. 111-125; Paul H. Hoch, James P, Cattell, Harry H. Pennes, "Effects of Mescaline and Lysergic Acid (d-LSD-25)," American Journal of Psychiatry, CVIII (1952), pp. 579-584.

[11]David F. Aberle, The Peyote Religion Among the Navajo Stockholm: Wenner-Gren Foundation for Anthropological Research, Inc., 1966, p. 9.

in dried or fresh form, powdered or whole, or liquid, most have done so under laboratory conditions, recording their sensations and impressions. Investigators and American Indian members of the Native American Church agree that peyote has a particularly bitter taste, nauseating to many. Church members have stated: ". . . taking peyote is hard, the taste is bitter, the nausea is unpleasant."[12] Non-Indian investigators have described feelings of increased competence, dulled sensations, lack of fatigue or sleepiness: ". . .my body had become, in a measure, a stranger to my reason."[13]

Difficult though its ingestion may be to tolerate, for centuries peyote has exerted an appeal to outweigh its unattractive qualities. Sahagún, in the twenty-ninth chapter of the tenth book of "The General History of Things of New Spain" wrote of various kinds of people who lived there. First he described the Tolteca:[14]

> . . . these first came to live here in the land, called land of the Mexica, land of the Chichimeca. And for several four-hundreds of years they dwelt in the vicinity of Tollantzinco. . . . and these Tolteca were called Chichimeca. There (was) no real word for their name. Their name is taken from -- it comes from

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[12]Ibid.

[13]James H. Leuba, Psychology of Religious Mysticism, quoting Weir Mitchell and Havelock Ellis, New York: Harcourt Brace and Company, 1929, p. 24.

[14]Dibble and Anderson, Book 10, p. 165.

-- their manner of life, their works. The Tolteca were wise.

Then Sahagún wrote of their works, their skills in building great monuments and houses, their specialists in working with precious stones and metals, feathers, and other materials. The Tolteca impressed Sahagún with their knowledge of stars and year and day counts. And they were righteous and devout.[15]

> . . . only one was their god; they showed all attention to, they called upon, they prayed to one by the name Quetzalcoatl. The name of one who was their minister, their priest, (was) also Quetzalcoatl. This one was very devout. That which the priest of Quetzalcoatl required of them, they did well. They did not err, for he said to them, he admonished them: "There is only one god; (he is) named Quetzalcoatl. He requireth nothing; you shall offer him, you shall sacrifice nothing; you shall sacrifice before him only serpents, only butterflies."

Sahagún then speaks of the three kinds of Chichimeca -- the Otomi, the Tamime, and the Teochichimeca and Cacachichimeca. In this section Sahagún tells of the uses of peyote for the Chichimecas:[16]

> And they knew the qualities, the essence, of herbs, of roots. The so-called peyote was their discovery. These, when they ate peyote, esteemed it above wine or mushrooms. They assembled together somewhere on the desert; they came together; there

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[15] Ibid., p. 169.

[16] Ibid., p.173.

> they danced, they sang all night, all day. And on the morrow, once more they assembled together. They wept; they wept exceedingly. They said (thus) eyes were washed; thus they cleansed their eyes.

Apparently Chichimecas particulary cared for their eyes since long-distant sight was a desired quality.[17]

> And when, perhaps, (there was) a little food, they roasted it, broiled it. The men did not do the work; only the women, because (the men) protected their eyes exceedingly; they could not endure the smoke. They said that it harmed their eyes, for the Chichimeca saw very far, and they took very careful aim. That at which they loosed an arrow, not twice, not thrice did they shoot it; (but) only once. Even if (the target were) very small, they did not miss it; even if it also were far away, they could hit it with an arrow. They did not miss it, nor did they shoot at it many times.

Sahagún's manuscript dated 1585, contains the earliest reference to peyote. Spanish and French missionaries and explorers, however, assigned several different names to plants used by natives of the Americas some of which probably correspond to the cactus, peyote.[18]

References to peyote or something resembling peyote appear in several journals, letters, and reports in the first two and a half centuries after the Spanish conquest. These references lend credence to the likelihood of

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[17] Ibid., pp.173-174.

[18] James S. Slotkin, "Peyotism, 1521-1891," American Anthropologist, LVII, pp.203-204.

ritualistic usage of peyote dating from pre-conquest times. James Slotkin cites sources documenting peyote usage to reduce fatigue and hunger among Chichimecas, as a medicine by Zacatecas, and to bring forth knowledge or revelation of Aztecs and Zacatecas, all appearing in the sixteenth century. In seventeenth century writings he notes evidence of peyote usage among the Acaxtees, Lagunas, Cazcans, Queres, Tarascos, and Coras. To this list he adds Opatas, Pimas, Hopis, Tamaulipecs, Isletans, Taosans, Coahuiltecans, Jumanos, and Caddos in eighteenth century documents.[19] Although the earliest sources are all from tribes resident in southern New Spain this occurrence may represent only a paucity of sources for that period north of the Rio Grande. Apparently all sources point to similar uses of peyote among all the tribes mentioned -- for healing or strengthening or to aid in obtaining knowledge, either of the future or of events in far distant places. Peyote was also an integral part of larger tribal ceremonies or dances.

Fray Francisco Hildalgo reported to the viceroy of New Spain in 1716 on the customs and beliefs of the Asinai (Hasinai) people, one of the two confederacies now comprising the Caddo Tribe. Hidalgo had set out from the College of Santa Cruz de Queretaro to the country of the

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[19] Ibid., pp.209-210.

Tejas or Texias, a group of tribes who gave their name to the subsequent Republic of Texas. After describing the vast extent of the country of Tejas or Asinai with its numerous large and small villages, Hidalgo turned to a critique of Asinai beliefs and customs:[20]

> The whole nation is idolatrous -- as is at present recognized. They have houses of worship and a perpetual fire which they never let die out. They are very perverted and in their dances they have the Indian braves or the Indian women who get drunk on peyote or frixolilo, which they make for the occasion, and the people believe everything these persons tell them they have seen.

Fray Isidro Felis de Espinosa also reported on the Asinai Indians and the work of the Franciscans among them. In describing what he terms "Idolatrous and Superstitious Ceremonies" he takes note of certain rituals which suggest the use of peyote although he mentions no source of the drink.[21] He writes:[22]

> They forecast future events from many things that happen naturally. When the men are off on a buffalo hunt or in quest of their enemies in war, and it happens that a number of little birds come, they take it as a sign that the absent ones are near. They call these birds banit. When they go out to war they

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[20]Mattie Austin Hatcher, trans., "Description of the Tejas or Asinai Indians, 1691-1722," Fray Francisco Hidalgo to the Viceroy, November 4, 1716, Southwestern Historical Quarterly, XXXI (1927), pp. 55-56.

[21]Ibid., p. 152.

[22]Ibid., pp. 168-169.

> have a general meeting in the house of their captain and give drinks to the one whom they consider most valiant until he loses or pretends to lose his senses. After a day and night he declares that he saw where the enemy were and reports whether or not they were prepared. From this they forecast victory.

For at least 350 years after the Spanish conquest in 1521 and for untold centuries before European exploration and conquest aboriginal people inhabiting central Mexico through the desert regions north along the Rio Grande at least as far as the pueblo of Taos and eastward along the Gulf to the Red River utilized peyote for several purposes, according to tribal custom -- to alleviate weariness, drowsiness, and hunger, to heal wounds, infection, or disease, to aid in communication with the supernatural to gain knowledge.

Possibly other tribes within the outlined area in present day Mexico and the southwestern United States used peyote before the nineteenth century. Ritualistic use of peyote implies an experience rarely shared with foreigners, particularly those who had so little sympathy for native religions as evidenced in the following passage from a report dated August 15, 1691, from Fray Francisco Casañas de Jesus Maria to the Viceroy of Mexico, describing funeral rites:[23]

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[23] Ibid., XXX, p. 298.

> Once when I attended one of these ceremonies -- the dead person having been a Christian -- I wanted to see if they would give me a chance to sing a response. Three times I put my hand over the preacher's mouth and told him to hush for a little while, that I wanted to speak to God, that all he was saying was of no use, and that what I was going to say to God would alone be useful to the dead man. They did not prevent my doing what I wanted to do . . . .

In this passage Casañas depicted the courteous response of Caddos to his arrogant actions. The Caddo response is paralleled by a story told by Charles Alexander Eastman (Ohiyesa), a Lakota:[24]

> A missionary once undertook to instruct a group of Indians in the truths of his holy religion. He told them of the creation of the earth in six days, and of the fall of our first parents by eating an apple.
>
> The courteous savages listened attentively, and after thanking him, one related in his turn a very ancient tradition concerning the origin of the maize. But the missionary plainly showed his disgust and disbelief, indignantly saying: "What I delivered to you were sacred truths, but this that you tell me is mere fable and falsehood!"
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> "My brother," gravely replied the offended Indian, "it seems that you have not been well grounded in the rules of civility. You saw that we, who practice these rules, believed your stories; why, then do you refuse to credit ours.?"

Many tribes had a well-developed world-view, including belief in a Supreme Being, long before the arrival of Europeans, a fact few of the newcomers credited. American Indians throughout what is now the United States held

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[24]Charles Alexander Eastman, The Soul of the Indian: An Interpretation Lincoln: University of Nebraska Press, 1911, 1980, pp. 119-120.

several similar beliefs although their cultures varied widely. All accepted a faith embracing a Creator, sometimes the Supreme Being and sometimes allied with that deity. For instance: "The Cheyennes believe there is only One who created everything, who created life."[25] Also: "Maheo is so great we cannot begin to describe Him. We have never seen Him, but we know He is God over all."[26]

Charles Eastman wrote of the proper response of Lakotas to the Supreme Being:[27]

> The original attitude of the American Indian toward the Eternal, the "Great Mystery" that surrounds and embraces us, was as simple as it was exalted. To him it was the supreme conception, bringing with it the fullest measure of joy and satisfaction possible in this life.
>
> The worship of the "Great Mystery" was silent, solitary, free from all self-seeking. It was silent, because all speech is of necessity feeble and imperfect; therefore the souls of my ancestors ascended to God in wordless adoration. It was solitary, because they believed that He is nearer to us in solitude, and there were no priests authorized to come between a man and his Maker. None might exhort or confess or in any way meddle with the religious experience of another. Among us all men were created sons of God and stood erect, as conscious of their divinity. Our faith might not be formulated in creeds, nor forced upon any who were unwilling to receive it; hence there was no preaching, proselytizing, nor persecution neither were there any scoffers or atheists.

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[25]Peter John Powell, Sweet Medicine: The Continuing Role of the Sacred Arrows, the Sun Dance, and the Sacred Buffalo Hat in Northern Cheyenne History 2 vols., Norman: University of Oklahoma Press, 1969, II, p. 433.

[26]Ibid., p. 433.

[27]Eastman, Soul of the Indian, pp. 3-5.

Eastman has brought out several important points in this passage. A people who worship their God in silence and who decline spiritual aid from priests and who, further, refuse to preach their beliefs or search out converts might well be expected to hold beliefs and rituals unknown to outsiders.

Other tribes have shown evidence of similar beliefs. Kiowas speak of a Creator also in terms of mystery -- Daw-K'hee -- which means "Mysterious Spirit Power" from Daw, meaning "mystery" and K'hee meaning "man."[28] Caddos worshipped a Supreme Being.[29]

> They are not ignorant of God. Indeed, all of them know there is only one God whom they call in their language Ayo-Caddi-Aymay. They try, in all their affairs, to keep him in a good humor in every way possible. They never in any manner venture to speak of him in jest, because they say that, when he punishes them for anything, he does it well and that whatever he does is best. They also believe that he punishes those who are angry with him.

Another belief held generally by American Indians is the interdependence of all of creation. All of creation functions together in an interlocking manner, all inter-related with and to all things, animate, and inanimate. And all of creation is good. Baseness of any part of creation

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[28]Thomas Tonemah (Kiowa), Personal interview, April, 1984, Chickasha, Oklahoma.

[29]Hatcher, "Description of the Tejas," p. 288.

is a concept unknown to American Indians before the arrival of Europeans. Europeans brought with them the concept of original sin and the fall of man in which all of creation shared:[30]

> And he said to the man, "You listened to your wife and ate the fruit which I told you not to eat. Because of what you have done, the ground will be under a curse . . . .

American Indians had no such certainty of the supremacy of man:[31]

> . . . the red man prefers to believe that the Spirit of God is not breathed into man alone, but that the whole created universe is a sharer in the immortal perfection of its Maker.
>
> We believe that the spirit pervades all creation and that every creature possesses a soul in some degree, though not necessarily a soul conscious of itself. The tree, the waterfall, the grizzly bear, each is an embodied Force, and as such an object of reverence.

Such concepts of the interdependence and sacred nature of all of the things of the earth fell on unbelieving ears and closed minds as incredulous missionaries and explorers listened to their native hosts. Although the new arrivals carried with them a Christian religion which encompassed a mystical strain of its own they rejected any similarities of native beliefs with their own, desirous only of "winning

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[30]Genesis 13:17.

[31]Eastman, Soul of the Indian, p. 121.

the souls" of America's natives. As Charles Eastman so perfectly understood: "The religion of the Indian is the last thing about him that the man of another race will ever understand."[32] He realized the limitations of people coming from another and different culture and the obstacles they would place on native religions:[33]

> The first missionaries, good men imbued with the narrowness of their age, branded us as pagans and devil worshippers, and demanded of us that we abjure our false gods before bowing the knee at their sacred altar. They even told us that we were eternally lost, unless we adopted a tangible symbol and professed a particular form of their hydra-headed faith.

Good though they might be, European missionaries recognized only beliefs and practices which they considered pagan and anathema to the one true God. They acted quickly to stamp out beliefs which they considered idolatrous, heathen, and barriers to their divine mission. European missionaries particularly opposed Indian religious beliefs which centered on the sacredness of flora and fauna. Spanish missionaries especially deplored native ritualistic usage of psychoactive plants, whether they were flowers, herbs, fungi, or cacti. The bitter cactus peyote evoked equally bitter condemnation.

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[32] Ibid., p. x.
[33] Ibid., p. xiii.

CHAPTER III

CHANGING CIRCUMSTANCES

European missionaries came with a primary thought -- a primary mission -- to save souls from the certainty of eternal damnation by replacing native religions with Christianity. During the early years of European colonization of the Americas officials attempted to restrict Native American use of peyote, particularly in colonies of Spain which were near arid, cactus-growing areas. English and French explorers, missionaries, and settlers largely ignored peyote and other vision-producing plants. English colonists were quite content to prohibit native religious ceremonies and require that all people, native and English, abide by the rules of their courts. French traders and trappers preferred to settle with Indian tribes changing their traditions and customs unintentionally, at first. They learned and accepted the ways of their native hosts. Unlike the French, Englishmen threatened not only American Indian religion, but the land and lifestyle.[1]

Spanish sovereigns, however, had a divine mission granted to them by the Pope in Rome. Pope Alexander VI had given to the Spanish Crown dominion over all the lands and

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[1]Arrell M. Gibson, The American Indian: Prehistory to the Present. Lexington: D. C. Heath and Co., 1980, Chapters 5, 6, 9, passim.

people in the western hemisphere discovered by Christopher Columbus. This decision was challenged by the Portuguese sovereign with consequences that a treaty was promulgated designating a line of Tordesillas which would divide the unexplored, in the view of Europeans, world between Portugal and Spain -- Portugal receiving those lands east of the line of demarcation and Spain those lands west of the line.

The papal bull only divided the unexplored world. Another papal bull was necessary to justify Spain and Portugal as rightful and legal conquerors and possessors of their "new" worlds. Consequently, in 1497, Alexander VI pronounced another papal bull in which he assigned to Spain and Portugal the sacred task of the "propagation of the faith."[2]

Initially Spanish explorers and missionaries had little impact on American Indian customs, traditions, and ceremonies. Missionaries made every effort to convert natives to Christianity but with little success. Fray Pedro de Cordova, who came to Hispaniola in 1510, made the first real efforts at conversion of the native populace. He and other Franciscans founded missions but are reputed to have neglected to learn any Indian languages which

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[2]Jennings C. Wise, The Red Man in the New World Drama: A Politico-Legal Study with a Pagentry of American Indian History, edited by Vine Deloria. New York: The Macmillan Co., 1971, p. 36.

likely hampered their missionary efforts. Once begun, however, the Christian religion, in the form of Roman Catholicism, grew rapidly with ten bishophrics in New Spain by the end of the century.3

Needing to buttress his arguments for Spanish and Portuguese dominion in the Americas, Alexander VI called upon a Dominican monk, Fray Francisco de Vitoria, professor of theology at the University of Salamanca, to provide a defence that would have legal force in international relations. Vitoria did so, but issued further statements in which he proposed the theory that no one on earth, including the Pope, had the right to take the property -- the land -- of the natives. This concept had grown out of his theorizing that the native inhabitants of the Americas were "creatures of God."4

Being "creatures of God" in theory pronounced in a Spanish university little affected the people so designated. Theoretically, being so described meant that natives possessed souls and reason to which missionaries might make appeal. Until 1571, neither the Pope nor the Spanish sovereigns thought it necssary to extend the Inquisition over New Spain. In 1519, the Holy Office appointed an Inquisitor-General and two Inquisitors of the

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3Henry Charles Lea, The Inquisition in the Spanish Dependencies. New York: Macmillan Co., 1908, pp. 192-193.

4Wise, Red Man in the New World Drama, pp.35-38.

Indies, including the Dominican Pedro de Cordova, delegating its powers in 1527 to bishops.[5]

During this period when the Inquisition in New Spain was carried out by the bishops rather than the Grand Inquisitor only one instance of an Indian as victim was reported. In 1536, Bishop Zumarraga burned the cacique, or leader, of Tezcoco for offering human sacrifices.[6] In fact, the popular notion that native inhabitants of New Spain were savages, incapable of reasoning or understanding the Christian faith, protected them from the inquiries of bishops while permitting abuses by their overseers. Since protection of natives rested on their lack of exposure to Christianity there was little reason for natives to accept the new faith, which would expose them to the trials of the Inquisition. Charles V remedied this situation by a decree of October 15, 1538, exempting natives from the Inquisition.[7]

The natives of New Spain and their customs were soon to be addressed by the Spanish hierarchy, however, and in particular by the newly instituted Tribunal of the Inquisition. Receiving reports of the widespread use, by non-

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[5]Lea, Inquisition in the Spanish Dependencies, pp. 195-196.

[6]Ibid., p. 196.

[7]Ibid., p. 210.

Indians as well as by natives, of a cactus with vision-producing qualities, inquisitors and their staff sought to prohibit its use. The Inquisition addressed all areas of human concern -- civil as well as religious. In its capacity of concern for the general well-being of people within its charge, the Inquisition issued an edict in 1620 forbidding the use of peyote. Apparently, Spanish interest in peyote was the result of widespread use by non-Indians. Non-Indians were eating the cactus buttons for purposes of divination or prophecy, to determine guilt for offences and to locate lost property. The Inquisition denied narcotic properties to peyote or any other plant, insisting that hallucinations or other curious attributes were manifestations of the Devil, which clearly brought peyote usage within the work of the Inquisition.

The Edict of 1620 begins:[8]

> We, the Inquisitors against heretical perversity and apostasy in the City of Mexico, states and provinces of New Spain, New Galicia, Guatemala, Nicaragua, Yucatan, Verapaz, Honduras, Philippine Islands, and their districts and jurisdictions, by virtue of apostolic authority, etc.
>
> Inasmuch as the use of the herb or root called Peyote has been introduced into these Provinces for the purpose of detecting thefts, of divining other happenings, and of foretelling future events, it is an act of superstititon condemned as opposed to the

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[8]Irving A. Leonard, "Peyote and the Mexican Inquisition, 1620," American Anthropologist, XLIV, n.s. (1942), p. 326. The original in the Archivo General de la Nacion (Ramo de Inquisicion, tomo 289, Mexico City).

purity and integrity of our Holy Catholic Faith.

Commissionioners of the Holy Office (the Inquisition) carried out the edict of 1620 with zeal even in the northern province of New Mexico. Fray Estevan de Perea who succeeded Fray Alonso de Benevides as Father Custodian of the Missions of New Mexico sent regular reports to the Commissary-General of all New Spain. In the first of these reports Perea described his journey in 1629, with twelve soldiers, nineteen priests and two lay-brothers of the Franciscan order from Mexico City to Santa Fe. According to the first report the Indians received them gladly upon their arrival. Perea gave accounts of expeditions to the Apaches, Acoma, Zuni, and Moqui peoples.[9]

In later reports he wrote of fulfilling the edict against peyote. Since Perea was the inquisitor for the province of New Mexico he recorded evidence of peyote use provided in inquisition trials. The following documents corroborate the usage of peyote among non-Indians as well as Indians in this northern province.

In the first document a woman named Ana Cadimo, a mestiza denounced herself saying:[10]

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[9]Fray Estevan Perea, "Perea's Report on New Mexico in 1632-3," Early Western History (1901), pp. 359-362, Ayer Collection, Newberry Library, Chicago, Illinois.

[10]Slotkin, "Peyotism," p. 213.

> . . . the Indians and a Mexican woman called Francisca, the wife of Domingo Sombrerero, a Mexican Indian, were telling her that she was bewitched, and that she should take peyote and with it she would see the person who had bewitched her and done her evil: and that, seeing him, she would recover immediately; she would also see the charm, and where it was. And that the said Mexican Indian woman offered to give it (i.e., peyote) to her if she had had it; but since she did not have it, she told this declarant to find an Indian who would give it to her. And so she sought an old Indian of San Marcos, of the Queres tribe, who took, a bunch (of peyote) and gave it to this declarant with a little water. And she declared that it had no effect on her hearing or on her health, nor the rest that they had said.

A second document described the aid peyote gave in locating lost or stolen objects, used even by a Spanish soldier resident in Santa Fe. Feeling guilty and needing relief, Luis Pacheco declared:11

> . . . on the tenth of December of the past year of 1631, being in the habitations of the irrigated lands, in the house of Juan Anton, the mulatto husband of Ana, a Mexican ladina, and there being present Jusepe, a ladino Indian of the Queres tribe, interpreter or Indian interpreter of the priest Friar Christobal de Quiros, superior of the pueblo of San Felipe, a servant of the declarant having fallen and broken an arm, and that cooking a poultice to put on him, the said declarant said, "If we had here a little peyote it would be very good for this." And that the said Juan Anton answered, "Peyote is not only good for this, but to find stolen things (as well).

Juan Anton then gave an example when peyote had helped him in Durango in New Spain. Several items, clothing and blankets, had been stolen and could not be found. Juan

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11 Ibid., pp. 213-214.

Anton stated:12

> . . . I took six or seven heads or toots of peyote and, ground, I drank it. And afterwards I went into a private room and there appeared to me an old man and an old woman. And he asked me what was my difficulty, and I answered him that they had stolen that clothing. And he answered me, "Don't worry; go to a certain place; you will find it there." And I and the Indian from whom they had stolen the blankets went there, and we found an Indian who had the clothing and we took it away from him.

A third document from Perea's reports gives another but similar version of the preceding account by a Queres Indian. He stated his remembrances in the following manner:13

> . . . in the month of December he went to look for some horses on the ranch of Juan Anton, mulatto husband of Ana (Maria), a Mexican Indian; on which he found that there was also Luis Pacheco, soldier, taking care of a servant of his who had broken a collar bone, with the black one's herb. Whereupon Juan Anton said that if he had peyote, it alone would be enough to cure him. And that not only was peyote good for that, but also for finding stolen things. Inasmuch as it had happened to him that off there in New Spain (he) does not remember where he said, having had stolen from him some blankets from his house, through the agency of a Tarasco Indian the said Juan Anton took peyote, and threw himself down to sleep right away. And in his dreams there appeared an old man who said to him "What is the matter? Why are you sad?" And the said Juan Anton answered, "I am this way because someone stole some blankets from me." And the said old man answered him, "Get up. Go to such and such a place. And going into such and such a house there, you will find the Indian woman and the stolen blankets." And the said Juan Anton went, and found the blankets and the

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12 Ibid., p. 214.

13 Ibid., p. 214.

Indian woman as the said old man had told him.

This document illustrates that the Inquisition followed the Edict of 1620 against peyote and attempted to stop its usage, particularly among non-Indians. The document also clearly indicates two of the functions of peyote -- as a medicine and as a means of acquiring knowledge.

The Inquisition throughout New Spain slackened in its earlier zeal so that in July, 1638, the members had no cases and a year later they had only one. Publication of the Edict of Faith had ceased between 1624 and 1643, but large numbers of people were brought before the inquisitors following the pronouncement of the edict in 1650. After 1650, eight books were required to list all of the offenders, their offenses and testimony. Only four of those books have survived, but in those alone 254 cases are listed. Of those 254 cases 112 were for sorcery and divination, of which nearly all were against Indians and negroes or mulattoes. Testimony from one such case of divination illustrates the kind of hearsay accepted as evidence by the inquisitors. This testimony came from a man who had heard it from another concerning a third man who had since died, and yet it was found to be acceptable and preserved as evidence for future reference. The testimony concerned a miner, Blas Garces, who had allegedly taken peyote to help him discover a mine which had produced

precious minerals in the possession of another miner.[14]

At about the same time that Spanish conquistadores and missionaries were exploring the region they named "New Spain" French explorers began their investigations of a region they soon named "New France." The voyages of Jacques Cartier started in 1534, but they made little impact on the native inhabitants until explorations led by Samuel Champlain in 1608, encouraged missionary and trading activity, particularly after Jesuits replaced Récollets as missionaries to the natives. French Jesuits were remarkable among missionaries for several reasons. Many of them learned the language of the people they hoped to convert to Christianity. Secondly, Jesuit missionaries served native interests, as Jesuits perceived them, rather than the interests of either French trade or French government. They chose to live among the natives, sharing both the advantages and the discomforts of Iroquoian life. Thirdly, Jesuits accepted native spiritual activities and beliefs as similar in many ways to those of the Catholic Church. More than recognizing similarities or compatabilities Jesuits utilized certain aspects of native belief to explain Christian tenets and even de-emphasized those Christian doctrines in clear opposition to native belief. In particular, Jesuits stressed compatabilities between

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[14]Lea, Inquisition in the Spanish Dependencies, pp. 227-228, fn. 1, quoting from the mss. of David Fergusson, Esq.

native and French religion rather than differences.[15]

English colonists also came to America, settling along the Atlantic Coast. Jamestown in 1607, Plymouth in 1620, and Massachusetts Bay Colony in 1630 marked the arrival of a different kind of treatment of native inhabitants. Unlike Spanish missionaries and conquistadores or French explorers, traders, or Jesuits, Englishmen brought their families and planned to stay. Less certain than the Spanish or French that the natives had souls and minds capable of reasoning and free of directives of the Roman Catholic Pope, Englishmen set about dispossessing American Indians of their lands. Although one of their manifest purposes in colonizing the region they named New England was to bring the Christian religion to the native peoples,[16] Puritans spent more time in establishing their communities and government and worrying about heresies within those communities than in taking the Christian message to coastal tribes. Missions were established, however, the earliest continuing work being started by Thomas Mayhew, Jr. in 1642, who learned the Algonquian language to assist him in his missionary efforts on

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[15]Henry Warner Bowden, American Indians and Christian Missions: Studies in Cultural Conflict. Chicago: University of Chicago Press, 1981, pp. 75-85, passim.

[16]Francis Jennings, The Invasion of America: Indians, Colonialism, and the Cant of Conquest. Chapel Hill: University of North Carolina Press, 1975, p. 230.

Martha's Vineyard. Other Puritan missionaries followed him, most notably John Eliot. Nevertheless, English missionaries were fewer in number and achieved less conversions, by their own count, than the work of either the French or Spanish missionaries.[17]

Fewer missionaries and converts are only one aspect of English religious activity regarding American Indians. Apparently having little regard for native customs, traditions and religions, English missionaries neither recorded for posterity nor in any other way attempted to preserve any part of the culture of their hosts. In defense of their lack of concern for native societies, English Puritans argued that only European society and Christian beliefs were acceptable to God and, therefore, they must accept and follow God's will.

Unlike French Jesuits, English missionaries emphasized those aspects of Christian doctrine most incompatible with native beiefs -- doctrines of original sin, human depravity, and the necessity of divine grace to achieve salvation. Probably no American Indian tribe held traditional beliefs corresponding to these basic Christian concepts. On the contrary, American Indians perceived the world and humanity as basically good, needing only to

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[17]Bowden, pp. 112-113; Neal Salisbury, "Red Puritans: The "Praying Indians" of Massachusetts Bay and John Eliot," William and Mary Quarterly, XXXI, 3rd Series (1974), pp. 28-29.

maintain a harmonious relationship with all parts of their world. Beliefs in original sin and human depravity collided with convictions of the essential goodness of all creation.

Another major difference separated Puritans from natives, a difference Puritans also emphasized. Coastal Indians, as well as most other natives, saw no need for intermediaries between them and their deity. Puritan clergymen advised, exhorted, and otherwise guided members of their communities on all matters, civil as well as religious.

Most importantly, English Puritans forced native inhabitants within their range of influence to behave as Englishmen. Believing that all of native culture was unacceptable to God, Puritans, in bringing natives into the Christian faith, demanded that their converts and others deny their old customs and accept the values and conduct of Englishmen. Laws of the General Court of Massachusetts Bay Colony stated that missionized Indians must worship the Christian God, not their own, and that they must move to a new home near a Puritan town on lands to be purchased for that purpose.[18]

In addition to moving to a new home, natives accepting an offer of conversion to Christianity also consented,

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[18]Ibid.

willingly or otherwise, to a code defining acceptable conduct. Common provisions in such codes of conduct included fines for idleness, similar punishment for husbands beating their wives, or wearing their hair long, or women wearing their hair short, or moving their homes, or killing lice with their teeth. The Concord code banned the use of body grease, traditional games, and the telling of lies.[19]

The English, and in particular the English Puritan, impact on native inhabitants they contacted devastated those coastal peoples. Missionaries never arrived in the forefront of English movement, rather they appeared only after other evidences of English presence had become known including disease which weakened tribes to pressures for land for English communities.

With no regard for the native inhabitants of the Atlantic coast -- whether it be their customs and religion or their rightful possession of the land -- Englishmen promptly set about divesting natives of both. Their fiercest opponents were the tribal powwows, tribal spiritual leaders and healers, and sachems. Tribal leaders recognized, if only dimly, that their communities were

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[19]Thomas Shepard, The Clear Sun-Shine of the Gospel: Or an Historical Narration of Gods Wonderful Workings upon sundry of the Indians . . . . (1648), reprinted in Massachusetts Historical Society, Collections, IV, 3rd Series (1834), quoted by ibid., p. 133.

disintegrating under constant English pressure on their land and customs. Soon they would have neither land nor spiritual guidance.

Englishmen besieged native spiritualism as the work of the Devil, as something to be destroyed. Although they made no specific bans on peyote or other psychoactive plants such a prohibition would be included in their general forbiddance of native customs and practices. A common English attitude of arrogance and moral superiority, fostered by years of fighting technologically inferior Irishmen, carried over to American natives and permitted no allowance of different beliefs or religious ceremonies, which would include a sacramental use of plants.[20] This intolerant attitude has endured from colonial times through the American revolution and the founding of a new nation, the United States, to the present. Neither French compatibility and respect for native cultures nor Spanish preservation of native customs and ceremonies has persisted to become the dominant twentieth century Anglo-American attitude.

American Indians, from the Atlantic coast to the Rio Grande, refused to sit idly by while their customs, traditions and religions were trampled and their land taken. They reacted to the invasions on the one hand and

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[20]Bowden, American Indians at Christian Missions, pp. 113-114.

conquests, on the other, of their homelands in several ways, finally realizing that their very survival was in question.

CHAPTER IV

FROM ACCEPTANCE TO RESISTANCE

American Indian recognition of their approaching annihilation came slowly. Most tribes eagerly accepted European newcomers. Some hoped that the foreigners might aid them in wars with other tribes. Others thought that they recognized in the new arrivals the embodiment of ancient prophecies which had foretold of the coming of gods with white skin from the east. Still others welcomed the first Europeans as they customarily greeted any stranger, as an honored guest. For whatever reason most tribes initially accepted Spanish, French, and English colonists with sentiments ranging from tolerance through satisfaction to elation.

In 1710, Fray Francisco Hidalgo wrote to the Viceroy of New Spain describing the Asinai: "This nation is good humored and joyous. . . . They are friendly to the Spaniards."[1] Fray Isidro Felis de Espinosa, on a return journey to the Asinai or Tejas Indians, related the greeting he received in 1721:[2]

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[1]Mattie Austin Hatcher, trans., "Description of the Tejas or Asinai Indians, 1691-1722," Southwestern Historical Quarterly, XXXI (1927), p. 55.

[2]Ibid., pp. 151.

> On June 27th we met thirty-four Indians, five of them being captains. They all embraced us and showed the joy with which they received us in their country. On the next day after we had travelled nine leagues ninety-six persons came out to meet us, with all their captains and leading men . . . .
> . . . each captain took a handful of the powdered tobacco they use and placed it upon a curious and beautifully painted deerskin. They all stirred it around to show their union of wills. They then put some of the tobacco in a pipe adorned with many white feathers as a sign of peace among them. One of the principal Indians lighted it and, after taking a whiff, he passed it to the priests and other Spaniards, for this is their most usual ceremony when receiving friends.

Fray Estevan de Perea, in his reports on New Mexico in 1632-1633, described the arrival of his expedition in April, 1629: "They were well received by the natives and succoured with some refreshments, of fishes and other things of the country; to whom they gave, in exchange, meat and Maize. . . ."[3] Writing of their arrival at Acoma, Perea states:[4]

> Their apprehensions assured a good reception by the Indians of the Crag, who spontaneously proffered admission. For by force or industry it seems impossible to be able to enter because of the inexpugnable situation, since it is a cliff high as Mount Amar in Abasia, or as the unsuperable steep which Alexander won from the Scythians.

Journeying farther west, the group of Spaniards reached the province of Zuni: ". . . and its natives, having tendered

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[3]Perea, "Perea's Report," p. 359.

[4]Ibid., p. 360.

their good will and their arms, received them with festive applause. . . ."[5]

American Indians greeted Frenchmen and Englishmen in this same friendly manner. Although they had begun to distrust Spaniards by the time of the founding of Jamestown by the English in 1607, they had nevertheless greeted the newcomers with amity. A member of the first expedition to explore the James River wrote: "(The Indians) are naturally given to trechery [sic], howbeit we could not find it in our travell up the river, but rather a most kind and loving people."[6]

Conflict, however, soon occurred, most likely as a result of European arrogance in usurping native land and labor and a general contempt for native values and customs. As Black Elk interpreted it many years later:[7]

> Once we were happy in our own country and we were seldom hungry, for them the two-leggeds and the four-leggeds lived together like relatives, and there was plenty for them and for us. But the Wasichus (White men) came, and they have made little islands for us and other little islands for the four-leggeds, and always these islands are becoming smaller, for around them surges the gnawing flood of the

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[5]Ibid., p. 360.

[6]Philip L. Barbour, ed., The Jamestown Voyages under the First Charter, 1606-1609, Hakluyt Society Publications, 2nd Series, CXXXVI. London: The Hakluyt Society, 1969, pp. 103-104.

[7]John G. Neihardt, Black Elk Speaks: Being the Life Story of a Holy Man of the Oglala Sioux. New York: Pocket Books, 1972, p. 9.

Wasichus; and it is dirty with lies and greed.

Initial friendliness at Jamestown, in the Tejas country, in the province of New Mexico, and in New England quickly turned to enmity. Across the land from Algonquian tribes whose homelands were along the Atlantic coast to the Pueblo peoples who inhabited villages mostly along the Rio Grande spiritual leaders as well as military chiefs or headmen counseled their followers and planned ways to guard their customs and traditions and their lands. Algonquians under the control of the Powhatan Confederacy in the Chesapeake region and those led by Metacom in New England devised and executed attacks against English settlements on their lands in the seventeenth century. Shortly after Metacom's war in New England, Pueblo people revolted against the Spaniards, particularly the Catholic missionaries.

In 1680, a spiritual leader at the pueblo of San Juan by the name of Pope aided by another spiritual leader from Santa Domingo pueblo organized most of the Rio Grande pueblos into a confederacy allied with the Pueblos of Acoma, Zuni, and Hopi for the one purpose of driving out the intruders. Tanos from Galisteo Basin and Tewas north of the Spanish center at Santa Fe had lived in closer contact with Spanish government and religion than many of the other pueblos and they came to the forefront in the

siege of Santa Fe.

Perhaps the most important aspect of the Pueblo revolt was its leadership. Unlike military actions against other tribes in which members of police societies would command a fighting force, spiritual leaders guided the course of these attacks against the Spanish. The planners differed from the usual practice in that they involved spiritual guides, but their principal victims also reflected the basically religious character of the series of attacks. Of the Spanish population of 2350, most of them resident in Santa Fe, Pueblo fighters killed between 375 and 380. Of the thirty-three Spanish missionaries, however, Pope's forces killed twenty-one.[8] It is clear who the Pueblo people perceived as their enemies.

Why would usually peaceful people rebel? Eighty years before the revolt, in 1599, Spaniards had attacked Ácoma in revenge for an outbreak there the preceding December in which Spanish soldiers trying to purchase supplies from the women of Ácoma had demanded a turkey, a creature whose feathers provided ceremonial headdresses and prayer sticks as well as clothing for Ácoma people. Most of the Spanish soldiers died in the fracas in 1599, but in the retaliation a month later seventy Spanish soldiers

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[8]Elizabeth A. H. John, Storms Brewed in Other Men's Worlds: The Confrontation of Indians, Spanish, and French in the Southwest, 1540-1795. College Station: Texas A and M University Press, 1975, p. 102.

destroyed the pueblo and most of its population. Survivors were taken to Santo Domingo where seventy to eighty men and five hundred women were tried, found guilty, and punished. The punishment satisfied Spanish officials since no pueblo rebelled for eighty years.[9] Eighty years, however, proved to be the extent of Pueblo patience.

In the intervening years between the destruction of Acoma and the Pueblo revolt Spanish missionaries had gradually forced more and more of their religion upon the people. Forced acculturation added to increasingly frequent Apache attacks, drought, and disease influenced Pueblo spiritual leaders to reflect on reasons. They decided that they had angered their gods and a return to an earlier, purer spiritual life was necessary. The Pueblo populace responded and the old religions reawakened with new vigor. Pueblo people returned to their traditional land-based world-view, to those beliefs which grounded their culture. A Tewa prayer states: "Within and around the earth, within and around the hills, within and around the mountains, your authority returns to you."[10]

Tewas believed that the first people came from Sipofene, a place underground. They emerged from that

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[9] Ibid., pp. 48-50.

[10] Alfonso Ortiz, The Tewa World: Space, Time, Being, and Becoming in a Pueblo Society. Chicago: The University of Chicago Press, 1969, p. 13.

first home through a lake named Sandy Place Lake. In that earlier world all lived together in amity; supernaturals, humans, and animals. After their emergence, Tewas symbolized their coming into this world by building underground ceremonial chambers known as kivas.

Spanish missionaries reacted to this resurgence of traditional religion with fear and reprisals. They perceived traditional native spirituality as idolatrous and a threat to Spanish control. Consequently, in 1661, the Franciscan custodian of New Mexico prohibited all kachina dances, a traditional Pueblo ceremony, and ordered missionaries to find and destroy idolatrous images -- primarily kachina masks. Kivas were duly raided and 1600 kachina masks were destroyed as well as prayer sticks, feathers, and other images.[11] Conflict continued.

Spanish priests regarded Pueblo religion as witchcraft but responded apparently not with exorcism but with further reprisals. In 1675, soldiers once again confiscated religious effects, burned kivas and jailed and punished forty-seven Pueblo spiritual leaders, three of whom were hanged. Pueblo people, believing that their only defense against drought and disease lay in the powers of their spiritual leaders, journeyed to Santa Fe to protest the

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[11]Edward H. Spicer, Cycles of Conquest: The Impact of Spain, Mexico, and the United States on the Indians of the Southwest, 1533-1960. Tucson: The University of Arizona Press, 1962, p. 160.

incarceration of their shamans. The Governor of New Mexico released the prisoners to their people and the incident ended, but no one forgot it.[12]

Pope was one of those who remembered. He visited with leaders of many pueblos who agreed with his developing plans. While some of the pueblos declined at first to join the revolt most concurred once the offensive began. All the pueblos north of Isleta joined in the rebellion, attacking missions within their pueblos and then journeying to Santa Fe to join the seige there. The westward pueblos of Acoma, Zuni, and Hopi destroyed their Christian missions but chose to stay at their own pueblos. The seige lasted nine days before the Spaniards abandoned their stronghold in the Governor's Palace and fled to El Paso, by way of Isleta which was deserted.[13]

Eastern and western Pueblos had united to drive the Spaniards away with their hated Christian religion. Native prisoners taken during the revolt when queried about native motives for the burning of Christian churches and the killing of Catholic priests stated:[14]

> . . . that he knows and has heard it generally

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[12]John, Storms Brewed in Other Men's Worlds, p. 94.

[13]Ibid., pp. 100-101.

[14]"Declaration of Josephe, Place of the Rio del Norte, December 19, 1681," quoted in Chronicles of American Indian Protest. Greenwich: Fawcett Premier Books, 1971, p. 13.

> stated that while they were beseiging the villa the rebellious traitors burned the church and shouted in loud voices, "Now the God of the Spaniards, who was their father, is dead, and Santa Maria, who was their mother, and the saints, who were pieces of rotten wood," saying that only their own god lived. . . . they all went to bathe in the rivers, saying that they thereby washed away the water of baptism. . . . The captains and chiefs ordered that the names of Jesus and of Mary should nowhere be uttered, and that they should discard their baptismal names, and abandon the wives whom God had given them in matrimony, and take the ones that they pleased.

On August 21, 1680, a Pueblo union had driven out their oppressors. They achieved that union only in the face of destruction of their customs, beliefs, their way of life. Popé appealed to the Pueblo people to return to the ancient customs and beliefs and to remove all traces of Spanish presence, including the iron hoes, wheeled carts, even the new fruits and vegetables. To appease Pueblo gods the people must practice traditional rituals and ceremonies and live a pure life, untainted by Spanish goods or thoughts. Many found it difficult to return to a way of life they had lived a century before. The people disliked the totality of Popé's prohibition of anything Spanish and his fanaticism and his own people killed him. Pueblo union held only as long as they perceived a common and immediate danger. In 1692, Diego de Vargas commanded an expedition which accomplished the re-conquest of New Mexico, but Spanish dominion had weakened and Pueblo resistance had strengthened in those twelve years of

freedom. Pueblo people had become much more adamant in retaining their own cultural and spiritual values and practices and rejecting all but superficial aspects of the Catholic religion. The most tenacious tribe in keeping their traditional spirituality was the Hopi. While other Pueblos exchanged some of their autonomy for protection and trade, the Hopis chose to chance Navajo and Apache attacks and economic losses rather than submit again to the Catholic faith with it priests and missions in their midst.15

Both Spanish government and missionary groups relented somewhat in their control over the Pueblo people. Labor became less restrictive. Franciscans had even learned a lesson in the Pueblo revolt against them -- they moderated their religious demands partly because they realized how little they had changed the faith of their converts and partly because they had less power in the Spanish colonial system.16 Against the Spanish forces American Indians had won valuable gains. In the English colonies, however, American Indians faced a more unrelenting foe.

Unlike Spanish colonialization Anglo-American settlement and expansion threated American Indian land and life style. Ritual and religion aided natives against such

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15John, Storms Brewed in Other Men's Worlds, pp. 113-114.

16Ibid., pp. 147-150.

invasion of native customs, traditions, spirituality, and tribal identity. Traditional Algonquian spiritual beliefs and ceremonies produced a long line of prophets in several tribes in the eighteenth and nineteenth centuries. In each circumstance people were responding to a crisis in the survival of their culture.

If we accept the definition of David Bidney of human culture: " . . . as the process and product of the cultivation of the potentialities of human nature and the natural environment for the satisfaction of basic psychosocial needs and aspiration. . ."[17] then a crisis occurs when the particular culture can no longer meet the needs of its members -- when needs, ideals, and aspirations must be suspended. Rapid and continual change often serves as a major cause of cultural crisis, whether the change questions survival, itself, or the desire for survival under untenable circumstances in which traditional values have been lost. Under these disastrous conditions people perceive the situation as an emergency and seek a means to alter a seemingly hopeless future.[18]

Recognizing human helplessness in a critical situa-

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[17]David Bidney, "The Concept of Cultural Crisis," American Anthropologist, XLVIII, N. S. (1946), p. 535.

[18]Ibid., pp. 534-551; also see, Weston LaBarre, The Ghost Dance: The Origins of Religion. New York: Dell Publishing Co., 1970 and Michael Barkun, Disaster and the Millennium. New Haven: Yale University Press, 1974.

tion, people everywhere freqently turn to supernatural beings or forces for deliverance -- a messiah or at least a prophet who has direct contact or revelation from the Supreme Being.

Inland Algonquians recognized such a need. Their brethren, Algonquian tribes of the Atlantic coast, had almost disappeared, victims of countless skirmishes and conflicts with English colonists. Western Algonquians who had long inhabited lands around the Great Lakes south to the Ohio River had allied with French colonists to the dismay of English settlers. Almost a century of war between the two imperial powers in the Northeast had reduced Algonquian population and devastated their homes and fields. Rumors of a major offensive against Algonquian tribes, lack of supplies, the presence of surveyors delineating boundaries within their homelands, and a smallpox epidemic all proved more than the Algonquians could assimilate.

Delawares, living east of the rest of the tribes, began to perceive the disintegration of their society first. In 1762, a Delaware began to prophesy, telling his fellow tribal members of a vision he had received from the "Master of Life." The message Neolin, the Delaware prophet, brought to his people was simple: "Hear what the Great Spirit has ordered me to tell you: Put off entirely the customs which you have adopted since the white people

came among us."[19]

The similarities in Neolin's message and that of Pope are strinking. Both claimed the falsity of European ways and goods and, in particular, the folly of American Indian dependence on those customs and goods. A second aspect common to both revelations was an affirmation of the goodness and harmony with all of creation in which the Delawares and the Pueblos had lived before the arrival of Europeans. Disaster had fallen upon the people and only the Supreme Being could save the community, the culture, from extinction. Survival would come only if the Algonquians, (or Pueblos), returned to ancient customs, ceremonies and beliefs. Only then would they regain their lost independence and strength; only then would they regain their land. It was a cry for freedom that could not be ignored.[20]

An Ottawa-Chippewa named Pontiac took up the prophecy and built a fighting confederacy of mostly Algonquian tribes around its message. Pontiac was a spiritual leader of the Ottawas as well as a military chief. He gathered people from many Algonquian tribes in 1763, near

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[19]James Mooney, The Ghost-Dance Religon and Wounded Knee. Dover Publications, Inc., 1973, originally published as the Fourteenth Annual Report of the Bureau of Ethnology to the Smithsonian Institution, 1892-1893, Part 2, Washington, D.C.: United States Government Printing Office, 1896, p. 662.

[20]Ibid., pp. 663-638, passim.

Detroit where he proclaimed the prophecies of Neolin and asked the tribes to unite to preserve their tribes and their traditions. In addition to Ottawas and Delawares, Shawnees, Miamis, Potawatomis, and Chippewas among Algonquian tribes joined the confederacy, along with Iroquoian tribes, Senecas and Wyandots. After an initial success when Pontiac's forces attacked twelve English forts simultaneously and captured eight, the confederacy began to disintegrate. A lengthy siege of Fort Detroit as well as French refusal of help eventually disillusioned tribal warriors until finally only Pontiac's own tribe remained in the field. The war was lost; British settlement resumed its previous westward movement; and yet, the spiritual reawakening survived, subdued, perhaps, but only awaiting a new revelation.

Neither Algonquians nor Iroquoians had long to wait. No eastern tribal situation had improved; need for renewal was still present; cultural crisis continued at a level difficult to endure. Following American Independence, battles between soldiers of the new nation and tribes intensified in much the same area. Food became scarce as fields were burned, then left unplanted, and always there were the omnipresent surveyors, harbingers of westward moving American settlement. Sickness ravaged the camps of Algonquians and Iroquoians including a small Shawnee village.

There, in 1805, a Shawnee fell unconscious, apparently seriously ill, perhaps dead. As his kinsmen and friends prepared burial arrangements he suddenly awoke with news of a revelation from the "Master of Life." He related that although he had not entered the spirit world, he had seen a joyful place which only some could enter. After his initial vision the Shawnee received a new name reflecting his new stature as a holy man -- Tenskwatawa, "the Open Door."

The "Master of Life" sent several visions to Tenskwatawa in which several aspects correspond closely to the messages received by Pope and Neolin in their rejection of European materials and customs. Shawnees as well as other tribes would survive only in a return to their own traditions and clothing, food, and implements. However, Tenskwatawa distinguished between Europeans and Americans. While Europeans might be considered as friends, Americans should be avoided. Indians living near settlements of the young nation had clearly identified their principal enemy. Tenskwatawa declared that the "Master of Life" had told him:[21]

> The Americans I did not make. They are not my children, but the children of the Evil Spirit.
> They grew from the scum of the great Water when it was troubled by the Evil Spirit. And the froth was

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[21]R. David Edmunds, The Shawnee Prophet. Lincoln: University of Nebraska Press, 1983, p. 38.

> driven into the Woods by a strong east wind. They are numerous, but I hate them. They are unjust. They have taken away your lands, which were not made for them.

Not only had Tenskwatawa identified the enemy, but he had defined the major problem of his tribe and their neighbors -- their ever-increasing loss of land.

Tenskwatawa also inveighed against tribal violence, consumption of alcohol, disrespect of elders, sexual promiscuity, old medicine bundles which had lost their power and witchcraft, as well as all things which had come to them from the hated Americans. His admonitions had positive aspects as well as negative. He provided prayer sticks to aid believers in their own communications with the "Master of Life," and he suggested new ceremonies which would please their deity and bring his beneficience.[22]

Desiring to spread the good news of his revelations, Tenskwatawa spoke to delegations from other tribes -- other bands of Shawnees, Wyandots and Ottawas as well as Senecas and he sent messengers to far distant tribes. Some accepted the new religion and others opposed it, largely depending on their regard for the Shawnee people.

As the teachings of the Prophet, Tenskwatawa, spread among tribes between the Great Lakes and the Ohio River,

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[22] Ibid., pp. 34-37.

Anglo-American soldiers and settlers feared both the Prophet and his teachings. William Henry Harrison, Governor of Indiana Territory, denounced Tenskwatawa as a charlatan demanding that the Prophet perform miracles to prove the validity of his visions. Tenskwatawa, astonishingly, had knowledge of an approaching event that would demonstrate his authenticity. He was aware that observation stations were being built within Shawnee territory to study a solar eclipse and he also knew when to expect it. Consequently he offered to cause the "death of the sun" to his followers. When the sun disappeared as ordered, Tenskwatawa's followers were convinced of his powers although Harrison remained unimpressed. Between the "proof" of the eclipse and the land acquiring practices of Harrison and the United States government which kept tribes in a crisis state, the Prophet gained many converts among the Kickapoos, Pottawatomis, Ottawas, Chippewas, Sacs and others.[23]

Concerned about the scarcity of provisions for converts who came to see him at Greenville, Tenskwatawa decided to move his base of operations west to Potawatomi lands on the Tippecanoe River, near the boundary supposedly separating natives and white settlers. While the Prophet planned his move to Prophetstown his brother, Tecumseh, was

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[23] Ibid., pp. 47-54.

making one of his many trips to tribes south of the Ohio and north to Canada to spread his brother's message of a return to traditional life, of peace among native nations, and the preservation of native lands.[24]

Conflict between increasing numbers of converts, including many warriors, and United States soldiers continued to grow. Rumors circulated on both sides that attack by the other was imminent. The United States had attained land cession treaties signed by whomever they might convince -- treaties the tribes did not recognize. The United States proposed to build forts on these disputed lands forcing Tenskwatawa and his followers to protest. Finally, in November, 1811, Harrison marched his soldiers to Prophetstown. Accepting an offer to negotiate, Harrison camped where warrior converts attacked him early the next morning. His retaliation induced the warriors to abandon Prophetstown with a disgraced Tenskwatawa. His influence ended at Tippecanoe, spirituality waned and, as Tecumseh's power increased, the movement became totally one of military resistance to an advancing Anglo-American horde intent on taking more and more land.[25]

While a dream of spiritual unity among tribes failed at Tippecanoe others tried to bring a spiritual regenera-

[24]Ibid, pp. 68-69.

[25]Ibid., Chapter 5, passim. See Edmunds generally for the relative importance of Tenskwatawa and Tecumseh.

tion to their own tribes. Tribal prophets among Algonquian and Iroguoian people prophesied hope for the future through a return to the customs and teachings and beliefs of that time before Europeans arrived. They insisted on a clear division between tribal ways and those of Anglo-Americans or French-Americans.

Among the Allegheny Senecas a prophet arose in much the same way as Tenskwatawa. During 1799, Handsome Lake, after a two week alcoholic drinking bout, had his first vision -- a vision of the destruction of the world brought about by magic, witchcraft, and other evils. Although Handsome Lake made some concessions to a large faction within the tribe who had accepted Quakers as teachers, primarily he emphasized ancient traditions and ceremonies such as the Strawberry Festival. He intended to revive a purer form of traditional religion rather than devise a new one. Through a series of later visions the Creator revealed to Handsome Lake three major themes: the imminent destruction of the world, good and bad actions and thoughts, and the means by which individuals and the tribe might survive or be saved.[26]

The religion founded on the visions of Handsome Lake has endured almost two centuries among Iroquois tribes living in New York, Quebec, Ontario, and Oklahoma. While

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[26]Anthony F. C. Wallace, The Death and Rebirth of the Seneca. New York: Vintage Books, 1972, pp. 239-254.

it was born in crisis and catastrophe it has persisted as a revitalization of tradition. The Code of Handsome Lake provides identity for its believers.

Throughout the nineteenth century other prophets arose among the Algonquian and Iroguoian tribes and among others as the ever-moving tide of westward expansion began to touch more western tribes. Having ceded all their homelands in 1819 and having agreed to move to a new home among the Osages who were enemies, Kanakuk and his band of Kickapoos remained on their ceded land. In the crisis of loss of land Kanakuk began to have visions. He admonished his people to give up their medicine bags and witchcraft and make some accomodation to white settlers. He, himself, went to St. Louis to talk with General William Clark and explain his vision and request that the Kickapoos be allowed to remain on their lands:[27]

> My father, the Great Spirit has placed us all on this earth; he has given to our nation a piece of land. Why do you want to take it away and give us so much trouble? We ought to live in peace and happiness among ourselves and with you. . . .

In spite of his appeal Kanakuk and the Kickapoos eventually moved to Kansas Territory, also known as the northern section of Indian Territory.

As American Indians realized loss of homelands by

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[27]Mooney, Ghost Dance Religion, p. 694.

advancing white settlement tribal prophets received revelations from the Creator or "Master of Life" and preached a return to old ways, a rejection of all things European, and unity and peace among all tribes. Inter-tribal unity, however, was a dream whose time had yet to come. Tribes as yet unaffected by Anglo-American expansion and those tribes whose leadership thought that they could and should co-exist with Anglo-Americans to benefit by their trade declined to listen to the appeals of peace among tribes and unification for the purpose of halting the further advance onto American Indian lands. On the Plains the Dakotas thought they could use the power of the United States as allies in their own push for dominance of tribes of that region. In the Southeast great nations such as the Cherokees and Choctaws accepted forms of government used by the United States and housing, clothing, commerce, and education offered by Christian missionaries. Many of them had adopted the customs of Anglo-Americans and they expected to be accepted by their neighbors. Little did they realize that their neighbors looked enviously upon their lands, mills, houses, and plantations. Like the Algonquians, the tribal nations of the Southeast would have to make way for their white neighbors, and on the Plains Dakotas would find their military technology finally inferior to that of the United States.

CHAPTER V

ALIENATION OR ASSIMILATION?

The government of the United States has vacillated between assimilation, trying to force American Indians to become like Euro-Americans, and alienation, separating each group of people by creating artificial boundaries. This policy was built on that of the British government before it. By the 1820's the clamor of settlers for tribal land in the Southeast reached a climax, resulting in state laws suppressing resident native peoples, and petitions to Congress to remove natives west of the Mississippi River. No more would there be governmental efforts to educate natives in the ways of Euro-Americans; no more would the federal government protect them from land-hungry frontiersmen. With the inauguration of Andrew Jackson the long-held concept of a separate Indian country beyond the settlements came to fruition.

George Washington, Thomas Jefferson, James Monroe, and others before Jackson had conceived the idea of a separate territory for Indians, a land where they might gradually come to accept domination by citizens of the United States. Jefferson's humanitarian impulses led him to consider colonizing eastern American Indians in a western area temporarily. His ideas appealed to his colleague, President James Monroe, who requested recommendations from

William Clark, then Superintendant of Indian Affairs at St. Louis, who replied:[1]

> The events of the last two or three wars, from General Wayne's campaign, in 1794, to the end of the operations against the southern tribes in 1818, have entirely changed our position with regard to the Indians. Before those events, the tribes nearest our settlements were a formidable and terrible enemy; since then, their power has been broken, their war-like spirit subdued, and themselves sunk into objects of pity and commiseration. While strong and hostile, it has been our obvious policy to weaken them; now that they are weak and harmless, and most of their lands fallen into our hands, justice and humanity require us to cherish and befriend them.
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> * * * * * *
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> But, to take these steps with effect, it is necessary that previous measures of great magnitude should be accomplished; that is, that the tribes now within the limits of the States and Territories should be removed to a country beyond those limits, where they could rest in peace, and enjoy in reality the perpetuity of the lands of which their buildings and improvements would be made.

The difference between Jefferson, Monroe, and Clark on the one hand and Jackson on the other lay in Jackson's attitude toward American Indians as one of lofty superiority treating with degraded and hopeless inferiority. With such a view-point Jackson would listen to the claims and desires of Euro-Americans and ignore the pleas, offers or legal arguments of the tribal nations of the Southeast.

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[1]Jerome O. Steffen, William Clark: Jeffersonian Man on the Frontier. Norman: University of Oklahoma Press, 1977, pp. 132-133.

Indian removal became a fact.

Moving to a new home in "Indian Territory" meant leaving significant parts of traditional religious practices behind them. Most importantly American Indians foresook their sacred sites. Each family left behind its ancestors, an unthinkable occurrence for Southeastern Indians. Although they would move possessions and re-form governments, re-build schools and houses, and re-establish social and economic ties, their spiritual resources had been abandoned east of the Mississippi River. Elders and tribal spiritual leaders set about changing a land-based spirituality now bereft of its sacred land sites into a ceremonial religion memorializing certain holy places -- a religion for a displaced people -- and the crisis passed. As keepers of traditional ceremonies for individual and tribal renewal consecrated holy ground for their dances in the new land hope returned to the people.[2] An altered religion kept societies and cultures intact among the Southeastern tribes until further crises occurred later in the century.

As life began to improve and tribal institutions were rebuilt emissaries came among the tribes in Indian Territory requesting their alliance with the Union or the

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[2]Archie Sam, "Public Address," University of Science and Arts of Oklahoma, Chickasha, Oklahoma, February 1, 1984.

Confederacy in the Civil War of the United States. Divisiveness and dissension among tribal members weakened their governments and their religions. Cherokees, Seminoles, Creeks, Caddos, and Delawares split into factions while Choctaws and Chickasaws remained united.

With the Reconstruction Treaties at the end of the Civil War, Cherokees, Creeks, and Seminoles lost land to be given to other tribes, and Choctaws and Chickasaws gave up the Leased District. Many tribes arrived to find a home on land taken from Southeastern tribes, and sixty-seven tribes finally came to reside in Indian Territory, crowded onto reduced land holdings -- enemies and friends, alike. Most of the tribal societies functioned poorly in such a setting. Many were forced to inhabit lands in a climate heretofore unknown to them and unpleasant for them to experience.

In the face of declining populations attributable primarily to disease, tribal leaders performed their traditional dances, praying for deliverance from that pestilential land. Others prayed for a return to a happier, more rewarding time. The crisis of crowding and climate and disease, however, would receive an additional burden to tribes in Indian Territory and throughout the Plains, the Southwest, California, and the Pacific Northwest.

Having thoroughly chastised the Confederacy, a re-united United States would turn its attention once again

to American Indians following the Civil War. Although battles had been fought between soldiers of the Union and Dakotas, Apaches, Cheyennes, and Navajos during the war, the United States prosecuted the "pacification of the Plains" with greater fervor when its resources and men had no other battles to fight. The ultimate success of the United States War Department in its mission against American Indians between the Navajo Wars beginning in 1860 and Geronimo's surrender of his band of Chiracahua Apaches in 1886, destroyed American Indian military strength, caused the extermination of vast buffalo herds, reduced tribal land bases, disrupted families, ruined native economies, and, not least important, demonstrated the impotence of traditional spirituality to satisfy the needs, ideals and aspirations of tribal groups. Tribal societies were disintegrating in the presence of repeated, to the point of perpetual, crises. Yet, more changes would come to strain those cultures already near annihilation.[3]

Land cession treaties, one after another each of them successively reducing the size of tribal landholdings, enforced confinement to reservations, and finally, the Dawes Act which broke up communally-held tribal lands all contributed to a general hopelessness. And yet the announced purpose of the federal government and its

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[3]See, Ralph K. Andrist, The Long Death: The Last Days of the Plains Indians. New York: Collier Books, 1969.

advisors reflected only their desire to improve American Indian life and to make native life conform to their own standards. During the 1880's, individuals such as Helen Hunt Jackson,[4] and organizations such as the Boston Indian Citizenship Committee, the Women's National Indian Association, the Indian Rights Association, the Lake Mohonk Conferences of Friends of the Indian, and the governmental Board of Indian Commissioners loudly made known their protest against the disease and squalor of the reservations. Their solution to those problems they addressed embodied three concepts: allotment of tribal land to each individual tribal member, United States citizenship with constitutional protection and responsiblity, and education for the purpose of assimilation into the dominant Euro-American culture. Non-Indians hoped to eliminate all problems they perceived American Indians as having by removing their tribal identity.[5]

One of the groups most opposed to tribalism or "Indianness" was the newly established Indian Rights Association, founded in 1882, when John Welsh invited thirty men to unite to right the wrongs in American Indian

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[4]Helen Hunt Jackson, A Century of Dishonor. New York: Harper and Brothers, 1881.

[5]Francis Paul Prucha, ed., Americanizing the American Indians: Writings by the "Friends of the Indian" 1880-1900. Lincoln: University of Nebraska Press, 1973, pp. 4-6.

life. They planned to: ". . . secure to our Indian population civil rights and general education . . . and in time bring about the complete civilization of the Indians and their admission to citizenship."[6] Stated objectives of the Indian Rights Association provoked praise from all quarters except the Indian Bureau which was already feeling the cold wind of reform. While the objectives appealed to American Indians as well as non-Indians, some feared what would happen to them without their common lands and tribal identity. They had good cause for concern. Shortly after the founding of the Association, its Executive Secretary, son of the founder, Herbert Welsh wrote:[7]

> When this work shall have been completed the Indian will cease to exist as a man, apart from other men, a stumbling block in the pathway of civilization; his empty pride of separate nationality will have been destroyed, and in its place the greater blessings which he or his friends could desire will be his, an honorable absorption into the common life of the people of the United States.

As an integral part of the goal of forced assimilation, the Indian Rights Association influenced the Bureau of Indian Affairs to recommend that Congress adopt Senator

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[6]Jack T. Ericson, ed., Indian Rights Association Papers: A Guide to the Microfilm Edition, 1864-1973. Glen Pock: Microfilming Corporation of America, 1975, p. 1.

[7]Indian Rights Association Papers, Series 4, Herbert Welsh Papers, 1877-1934, Reel 133, Western History Collections, University of Oklahoma, Bizzell Memorial Library, Norman, Oklahoma.

Dawes' Land-in-Severalty bill in 1886. Regarding that bill and Indian customs Welsh wanted to change, he told the 1886 Lake Mohonk Conference:[8]

> The Indian lives to-day isolated from our own civilization, by language, by traditions, by the pauper-ration system, and, geographically, by means of his reservation, which completely separates him from the manifold influences both for good and evil which are comprised in the term civilization. . . .
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> To break down the walls which separate the Indian to-day from our world of thought and action, we should urge Congress during the present winter to pass a bill popularly known as Senator Dawes' general land-in-severalty bill. . . .

Welsh mentioned traditions and language as other barriers to civilization and assimilation for American Indians as well as the reservation system. Knowing that advisors to the Bureau of Indian Affairs had advised removing those aspects of American Indian life which set them apart from other Americans, Indian agents on the reservations systematically and unofficially prohibited native languages, names, clothing, ceremonies, and governments.

Another reformer, primarily in the field of American Indian education, intended to destroy all that could be construed as "Indian" or different from Euro-American customs in his students. Captain Richard Pratt stated:[9]

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[8]Prucha, Americanizing the American Indians, p. 97.

[9]Ibid., pp. 260-261.

> A great general has said that the only good Indian is a dead one, and that high sanction of his destruction has been an enormous factor in promoting Indian massacres. In a sense, I agree with the sentiment, but only in this: that all the Indian there is in the race should be dead. Kill the Indian in him, and save the man.

Others held similar thoughts. Secretary of the Interior, Henry M. Teller wrote:10

> If it is the purpose of the Government to civilize the Indians, they must be compelled to desist from the savage and barbarous practices that are calculated to continue them in savagery, no matter what exterior influences are brought to bear on them. . . .

Teller considered the greatest hindrance to assimilation of Indians into Euro-American culture to be their "heathenish dances" or religious rituals:11

> These dances, or feasts, as they are sometimes called, ought, in my judgement, to be discontinued, and if the Indians now supported by the Government are not willing to discontiue them, the agents should be instructed to compel such discontinuance.

Spiritual leaders or medicine men, as Teller termed them, particularly came under the Secretary's denunciation:12

> The medicine men resort to various artifices and devices to keep people under their influence, and are especially active in preventing the attendance of the children at the public schools, using their

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[10] Ibid, pp. 296-298.

[11] Ibid.

[12] Ibid.

conjurers' arts to prevent the people from abandoning their heathenish rites and customs.

During the last two decades of the nineteenth century organizations such as the Indian Rights Association and the Lake Mohonk Conferences on the Indian and Other Dependent Peoples were convinced that their cause was just and their actions valid. Doubt would come only to some and, then, much later. The reformers, perceiving American Indian circumstances and values from their own ethnocentric viewpoint, saw disease, poverty, squalor, filth, myth, magic, paganism, and heathen rituals. They failed to discern beauty, holiness, healing, generosity, and treasured traditions. They noticed skin lacerations, instead of a sacred offering of one person to his deity; they misunderstood memorializing the past as savage calls to military action; they noticed a community dancing through the night and thought it frivolous rather than religious. They tried to do what they thought was right by imposing their own values and social systems on a helpless people, but they had neglected to learn about the people they wanted to change, their values, their traditions, their ceremonies, their beliefs -- all that which had made American Indian life worth living. The reformers, good-hearted though they might be, took tribal heritage and pride and left their charges with a sense of loss -- loss of values and traditions, but also, a loss of occupation,

of social roles, of tribal identity.

The crisis was complete. Individual stress had found no acceptable means of release. Some tribesmen turned to alcohol to deaden their feelings of futility: others tried to become a part of the dominant society by accepting the clothing, customs, foods, and religion of Euro-Americans. For many, their own tribal traditions were powerless to alleviate their pain.

Perhaps those who felt their impotence most keenly were tribal leaders; military, civil, and spiritual. While they had received a charge to lead and guide their people, authority rested with others -- non-Indian officials of the United States government. They faced a discouraging situation of responsibility with no authority. They confronted the same two choices their ancestors had met with the arrival of Europeans three to four centuries before the current crisis: they could resist or they could surrender.

If they chose to surrender, they realized that they would be submitting to a culture and government which would require nothing less than denial of their very identity. Visions of such a renunciation left tribal members apathetic both for the present and for the future.

Death rates were increasing and birth rates decreasing as the population figures of American Indians fell to their

nadir in the census of 1890.[13] Tribal societies, by the fact of their declining populations alone, were headed toward extinction. As an example, tribes of the Kiowa, Comanche, and Wichita numbered 4,121, with the Apaches decreased to 326 and the Delawares to 95, while the Wichitas with all their affiliated bands totaled 424 and the Caddos, a remnant of two conderacies, numbered 538.[14] With precipitious declines in population experienced by tribes throughout the United States traditions were disappearing. Spiritual leaders declined to share their knowledge with younger members whose apathy precluded them from effective leadership. As each keeper of a specific ceremony or other portion of tribal history and belief died without passing his knowledge to another traditional spirituality weakened and became less adequate in coping with frequent and continuing crises.[15]

American Indians had another choice in their time of extreme crisis -- they could resist. Resistance could take

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[13]United States Department of the Interior, Census Office, Report on Indians Taxed and Not Taxed in the United States (except Alaska) at the 11th Census, 1890. Washington: Government Printing Office, 1894, passim.

[14]Ibid., pp. 102-103, 245; Henry F. Dobyns, Native American Historical Demography: A Critical Bibliography Bloomington: Indiana University Press, 1976, pp. 34-35.

[15]Henry F. Dobyns, Their Number Become Thinned: Native American Population Dynamics in Eastern North America. Knoxville: The University of Tennessee Press, 1983, pp. 328-329.

many forms. Some, however, had proved futile; large-scale military actions, for instance, and segregated reservations far removed from the settlements and cities of the dominant society. The United States had pushed tribal nations as far westward as the Pacific Ocean: There was no more land, no more frontier beyond which American Indians might live in peace. Recognition of the futility of resistance through military actions came to many leaders in the waning years of the nineteenth century. In 1877, when Chief Joseph of the Nez Perce tribe surrendered his band to Generals Howard and Miles, he stated:[16]

> . . . I am tired of fighting. Our chiefs are killed. . . . The old men are all dead. . . . Hear me, my chiefs. I am tired; my heart is sick and sad. From where the sun now stands I will fight no more forever.

And Sitting Bull of the Oglala Lakota tribe upon his return from Canada in 1881, told the commander at Fort Buford:[17]

> I do not come in anger toward the white soldiers- . . . . I will fight no more. I do not love war. I never was the aggressor. I fought to defend my women and children. Now all my people want to return to their native land. Therefore I submit. . . .

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[16]W. C. Vanderwerth, Compiler, Indian Oratory: Famous Speeches by Noted Indian Chieftains. Norman: University of Oklahoma Press, 1971, p. 130.

[17]Virginia Irving Armstrong, compiler, I have Spoken: American History Through the Voices of the Indians. Chicago: The Swallow Press, Inc., 1971, p. 126.

American Indian leaders also recognized the futility of resistance through removing themselves, or being removed, from the conflict. Chief Charles Journeycake of the Delawares addressed the Indian Defense Association in 1886, speaking of the ineffectiveness of that route:[18]

> We have been broken up and moved six times. We have been despoiled of our property. We thought when we moved across the Missouri River and had paid for our homes in Kansas we were safe. But in a few years the white man wanted our country. We had good farms. Built comfortable houses and big barns. We had schools for our children and churches where we listened to the same gospel the white man listens to. The white man came into our country from Missouri. And drove our cattle and horses away and if our people followed them they were killed. We try to forget these things. . . .

Chief Journeycake's sentiments are reminiscient of those of the Southeastern tribes who, having lost their homes there and moved to Indian Territory, lost their government and institutions again, this time to the state of Oklahoma. Those tribal nations, especially the Cherokees, were also aware of the limited success of a third form of resistance -- fighting through the United States legal system.

American Indians had little choice: they could cease to exist or they could retreat into their own spirituality. Many American Indians did cease to exist through

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[18]Ibid., pp. 127-128.

physical death or through alcoholism. Others died as tribal members, denying their identity and choosing to take their land allotments and selling them, if they were adjudged "competent," and assimilate into the white man's world.

Traditional tribal spirituality seemed to be in danger of dying. Tribal spiritual leaders and their members endured a constant onslaught by Christian missionaries and Indian agents who sought to deprive Indians of their religion. Sitting Bull said:[19]

> Our religion seems foolish to you, but so does yours to me. The Baptists and Methodists and Presbyterians and the Catholics all have a different God. Why cannot we have one of our own? Why does the agent seek to take away our religion? My race is dying. Our God will soon die with us. . . .

If traditional tribal spirituality seemed to be dying, new revelations announced hope of regeneration. While in the midst of death and despair some died to receive visions, to journey to the Spirit World where they might meet and learn from the "Master of Life," the Creator, or the Great Mystery. Despondent though they might be, American Indians had the resiliency to respond to hope and life when the messages came.

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[19] Ibid., p. 128.

CHAPTER VI

RELIGIOUS RENEWAL IN TIMES OF OPPRESSION

Religious renewal or re-vitalization occurs whenever people feel a pressing need usually preceded by disillusionment with the old religion, but frequently a return to a purer spirituality as perceived in ancient times -- a return to a "Golden Age."[1] In this sense "new" religions among American Indians tried to bring back older dances and ceremonies as they were faced with chaos.

Many spiritual movements grew out of the despair Indians felt in the last quarter of the nineteenth century, and they occurred over a wide expanse of territory, although most of them were in the West, from the Southwest to the Plains to the Pacific Northwest. Historical events discussed in earlier chapters explain the geographical limitations of these nativistic, re-vitalization movements, i.e., removal of eastern tribes to Indian Territory and Plains wars subsequent to the Civil War. By this period most American Indians resided in the West.

One major spiritual movement in the Pacific Northwest appears to have been a forerunner of and an influence on later religious movements from the Pacific coast through

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[1]Weston Labarre, The Ghost Dance: Origins of Religion. New York: Doubleday and Company, Inc., 1970, passim.

the Plains. The Prophet Dance of the Pacific Northwest apparently began in the early years of the nineteenth century. Tribes of that region had accepted it before 1850. Spokane, Kalispel, Coeur d'Alene, Modoc, Okanagon, Kutenai, Flathead, and others practiced the dance and believed its teachings foretelling the impending destruction of the world, prophecies concerning the date of worldly catastrophe when they would be with those who died if they had obeyed the teachings of the prophets, and the means to salvation through special dances and songs given to them in dreams. Prophecy was unlimited; all might receive a vision:[2]

> The dreams came as often . . . even more often, to men who had little (shamanistic) power than to men who had much, and brought no faculty for curing or other shamanistic acts. There were one or two prominent dreamers in every tribe. At whatever time of year one had the dream, he proclaimed it within two or three days and organized a dance. All the inhabitants of his village came to his house in the evening. He described to them his talk with the Creator, prophesied the speedy end of the world, and told them at what hour they would see the "messenger bird" as a sign for the dance to begin. . . . As soon as they saw the bird they began to dance, standing in a circle around the dreamer, the circle not revolving or the dancers changing their positions. As they danced they sang the prayer-song which the dreamer had taught them. . . .occasionally some one had a prophetic dream during the ceremony, and at once uttered his prophecy to the people and took his place with the leader in the center of the formation. While dancing

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[2]Leslie Spier, The Prophet Dance of the Northwest and It Derivatives: The Source of the Ghost Dance, General Series in Anthropology, No. 1. Menasha: George Banta Publishing Co., 1953, pp. 7-8.

> the dreamer exhorted the community not to fight, lie, steal, commit rape, or sin in other ways, and urged the young men to ask permission of a girl's father before they married her.

The Prophet Dance arising early in the nineteenth century, if not before differs from the spiritual teachings of Pope, Neolin, and Tenskwatawa in its lack of reference to outsiders. The doctrines of the Prophet Dance suggest that peoples of the Pacific Northwest had yet to be stressed to the point of crisis at the beginning of the century. Another important point -- destruction of the world -- suggests that both death and renewal are united. Clearly there is no fear of the destruction of the world; rather they anticipate that event with joy and dance endlessly to achieve it. A Nespelim legend explains the necessity for renewal as a promise from "Old-one," as he finished his creation:[3]

> . . . I will send messages to the earth by the souls of people that reach me, but whose time to die has not yet come. They will carry messages to you from time to time; and when their souls return to their bodies, they will revive, and tell you their experiences. Coyote and myself will not be seen again until the Earth-Woman is very old. Then we shall return to earth, for it will require a new change by that time. Coyote will precede me by some little time; and when you see him, you will know that the time is at hand. When I return, all the spirits of the dead will accompany me, and after that there will be no spirit-land. All the people will live together. Then will the Earth-Woman revert to her natural shape, and live as a mother among her child-

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[3] Ibid., p. 11.

> ren. Then will things be made right, and there will be much happiness.

One of the prophets of the Kartar band envisioned the arrival of Christian priests, a group to beware.

The Prophet Dance evolved, in one off-shoot, into the "Dreamer" religion associated with Smoholla of Wanapum Indians. Smoholla, spiritual leader of his people and a healer, shortly after the death of his daughter, knowing that his powers had failed him stayed by his child's grave for several days until some of his fellow tribesmen found him dead. They took him to his home to prepare his body for burial. As the funeral progressed through the night and into the next morning Smoholla moved and opened his eyes. Two days later he spoke, asking the people to gather to hear of his journey to visit Nami Piap, the Creator.

Gathering his people around him, Smoholla told them that Nami Piap had told him to return to his home from the spirit world as he was not ready to die. He should rejoin his people to teach them certain songs and dances based on their old Washani religion. Nami Piap also told him to tell his people and other Indians to do what is right and "live like Indians."[4]

Smoholla might have been just one more in a long line

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[4]Clifford E. Trafzer, "Smoholla, the Washani, and Religion as a Factor in Northwestern Indian History," paper read at the Western History Association Meeting, October, 1983.

of "Dreamers" except for external forces crowding the tribes of the inland Northwest and the conflicts which inevitably occurred in the confrontation of the two cultures -- native and Euro-American. Smoholla's visions came at a time when his people and the bands and tribes around them had reached a crisis point between survival and extinction. Northwest tribes had divided into "progressive" and "traditional" factions, much as Algonquians and Southeastern tribes had done shortly before this time. Smoholla had received his first revelation while still a young man as he prayed, fasted and sought guidance from his spiritual mentor. His second vision came after the death of the daughter he had designated as his successor as a "keeper of the faith."

Smoholla emphasized the sacredness of all of creation and the destructiveness of non-Indian ways. He particularly rejected the way Euro-Americans farmed their land. James Mooney quoted Smoholla saying:[5]

> My young men shall never work. Men who work can not dream, and wisdom comes to us in dreams. . . . You ask me to plow the ground. Shall I take a knife and tear my mother's bosom? You ask me to dig for stone. Shall I dig under her skin for her bones? You ask me to cut grass and make hay and sell it and be rich like white men. But how dare I cut off my mother's hair?

Clearly Washani teachings and Smoholla's revelations

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[5]James Mooney, Ghost Dance Religion, p. 716.

conflicted with Christian missions, both Catholic and Protestant, which abounded along the Columbia River in Sahaptian territory. Washani belief in the sacred motherhood of the earth and Christian belief in God's command to man to subdue the earth, if not totally contradictory, seriously disagree. Christianity and a native religion in conflict seemed a major affront to Christian representatives of the United States government who promptly urged removal of these people to reservations for the avowed purpose of exposing them to Christian education. To Sahaptian tribes, as to most other American Indians, their homeland was sacred. To adandon it would be akin to sacrilege.

United States government officials remained adamant. At the treaty council in 1855 Chief Owi of the Yakima Tribe told the treaty commissioners that their land had come as a gift from God. God had: ". . . looked one way then the other and named our lands for us. . . . Shall I steal this land and sell it? Shall I give the lands that are part of my body. . . ?"[6] Others protested any idea of land cession. A Cayuse delegate, Young Chief, stated:[7]

> I wonder if this land has anything to say; I wonder if the ground would come to life and what is on it; though I hear what this earth says, the

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[6]Trafzer, "Smoholla. the Washani, and Religion."

[7]Ibid.

> earth says, God has placed me here. . . . (God has) named the roots that he should feed the Indians on: the water speaks the same way: God says feed the Indians upon the earth; the grass says the same thing.

Euro-American settlers wanted land, however, and Indian religion seemed minor to them in their manifest destiny to control all lands from coast to coast. They had fought battles before and would again for land justified by their Christian zeal in "saving souls." Smoholla's Wanapums, Palouses, and Nez Perces refused to move to their assigned reservations and after several skirmishes Nez Perces and Palouses began their long flight to safety -- a dream destined for disappointment.

Smoholla remained aloof from battles although settlers and federal Indian agents suspected him of inciting his tribesmen to fight. Throughout all his trials Smoholla kept his faith in the revelations he had received from Nami Piap. In time he chose successors and taught them the essentials of his faith, the songs and the ritual.[8]

Another off-shoot of the Prophet Dance appeared in approximately 1882, when John Slocum began a religious movement called the "Shakers." In November, 1882, Slocum, a member of the Squaxin Tribe living in southwestern Puget Sound, died and revived to announce divine revelation. He

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[8]For a description of the ritual of Smoholla's "Dreamer" religion, see Spier, Prophet Dance, pp. 40-48, passim.

told his friends and relatives:[9]

> My breath was out and I died. All at once I saw a great shining light. Angels told me to look back. I did, and saw my own body lying dead. It had no soul. My soul left my body and went up to the judgement place of God. . . . My soul was told that I must come back and live on earth. When I came back, I told my friends, "There is a God. My good friends be Christians. If you all try hard and help me, we shall be better men on earth.

John Slocum, or Squsachtun, developed a religious movement which had Christian veneer superimposed on a native Prophet Dance.[10] While his method of achieving divine revelation compares to those of other native prophets, his acceptance and espousal of Christianity sets his teachings apart from other prophets discussed here. One of Slocum's principal aides was also an elder in a Presbyterian church, which may account for a Christian emphasis.

Although the "Shakers," named for the movements adherents make during their meetings, symbolically shaking off their sins, tried to accomodate their religion to that of the dominant society their initial efforts were ineffectual. The local representative of the United States government, the Indian agent, and a missionary persecuted Shakers, even tying them up on one occasion. Legal action

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[9]Mooney, Ghost Dance, p. 746.

[10]Spier, Prophet Dance, p. 49.

came to their aid, however, with a court decision that declared that because Shakers had received their land in fee simple they had become United States citizens and were no longer under the jurisdiction of the Indian agent.[11]

In 1893, the attorney for the Indian Shakers, James Wickersham, wrote to James Mooney, an anthropologist with the Smithsonian Institution. His history of the Indian Shaker movement included a synopsis of their beliefs:[12]

> Their religion, in brief, is a belief in God as the father and ruler of all, and in Jesus Christ as the Son of God and the Savior of mankind. They know there is a heaven, for John Slocum was there, and believe in a hell of fire for the punishment of sinners, because the angels in heaven told John Slocum about it. They do not care for the Bible. It is of no use to them, for they have a distinct revelation direct from heaven. This is the only practical difference between them and the orthodox believers, and this they do not care for.

Both religous movements -- Smoholla's "Dreamers" and Squsachtun's "Shakers" -- have endured to the present time. Their rituals remain effective for them and their beliefs strong.[13] While they began in a time of crisis they have survived because they continue to fulfill a need and, perhaps most importantly, they have had the flexibility to grow and modify their doctrine and ritual. The

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[11]LaBarre, Ghost Dance, p. 222.

[12]Mooney, Ghost Dance, p. 775.

[13]For descriptions of the ritual of the Indian Shaker religion, see, Spier, Prophet Dance, pp. 49-54.

"Shakers" have so modified their doctrinal stance that the Presbyterian Church has accepted them into their fold.[14]

Another American Indian spiritual movement has endured, although persecuted and banned. Sun Dances performed by Plains tribes have their foundation in ancient Plains tribal traditions. Lame Deer said:[15]

> The sun dance is our oldest and most solemn ceremony, the "granddaddy of them all," as my father used to say. It is so old that its beginnings are hidden as in a mist. It goes back to an age when our people had neither guns, horses nor steel -- when there was just us and the animals, the earth, the grass and the sky.
>
> Huddling in their poor shelters in the darkness of winter, freezing and hungry, hibernating almost like animals, how joyfully, thankfully they must have greeted the life-giving sun, let it warm their frozen bones as spring returned. I can imagine one of them on a sudden impulse getting up to dance for the sun, using his body like a prayer, and all the others joining him one by one.

The purpose of the Sun Dance was renewal of the tribe, its traditions, customs, spirituality, and a time for a tribe which lived in small bands during the rest of the year to renew and strengthen bonds among the many bands:[16]

> Wi wanyang wacipi -- the sun dance -- is our greatest feast which brings all the people together

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[14] Ibid., p. 54.

[15] John (Fire) Lame Deer and Richard Erdoes, Lame Deer: Seeker of Visions: The Life of a Sioux Medicine Man. New York: Simon and Shuster, 1972, p. 199.

[16] Ibid., p. 199.

> . . . . Well, the sun dance is all the people communicating with all the mystery powers. It is the hanblechia of the whole Sioux nation.

Most importantly, however, the Sun Dance provided a means of communication and fulfillment of obligation between humans and their Creator -- the Great Mystery. Chased-by-Bears, a Yankton, discussed communication of Wakan Tanka (the Great Mystery) to humans in the Sun Dance:[17]

> We talk to Wakantanka and are sure that he hears us, and yet it is hard to explain what we believe about this. It is the general belief of the Indians that after a man dies his spirit is somewhere on the earth or in the sky, we do not know exactly where, but we are sure that his spirit still lives. Sometimes people have agreed together that if it were found possible for spirits to speak to men, they would make themselves known to their friends after they died, but they never came to speak to us again, unless, perhaps, in our sleeping dreams. So it is with Wankantanka. We believe that he is everywhere, yet he is to us as the spirits of our friends, whose voices we cannot hear.

Major themes of the Sun Dance parallel those of most religious rituals -- repentance for past thoughts and actions, thanksgiving for blessings received, and renewal of hope for a better future. Black Elk described these

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[17]Alexander Hartley Burr, ed., The World's Great Rim: Great Mysteries of the North American Indians. Lincoln: University of Nebraska Press, 1953, p. 161.

purposes:[18]

> When we go to the center of the hoop we shall all cry, for we should know that anything born into this world which you see about you must suffer and bear difficulties. We are now going to suffer at the center of the sacred hoop, and by doing this may we take upon ourselves much of the suffering of our people.

At the end of the first Sioux Sun Dance Black Elk stated that Kablaya, who had received a vision requiring him to initiate a tribal ceremony, told the first participants that they had become holy by their actions. By virtue of their participation these men would become leaders of their people and must remain worthy of that post by actions of mercy and love. They should remember first:[19]

> . . . that your closest relative is your Grandfather and your Father, Wakan-Tanka, and next to Him is your Grandmother and your Mother, the Earth.
>
> By your actions today you have strengthened the sacred hoop of our nation. You have made a sacred center which will always be with you, and you have created a closer relationship with all things of the universe.

All the men of the Sun Dance then sang this song:[20]

> I am sending a voice to my Grandfather!
> I am sending a voice to my Grandfather!

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[18]Joseph Epes Brown, ed., The Sacred Pipe: Black Elk's Account of the Seven Rites of the Oglala Sioux. Baltimore: Penguin Books, 1971, p. 85.

[19]Ibid., p. 99.

[20]Ibid., p. 100.

Hear me!
Together with all things of the universe,
I am sending a voice to Wakan-Tanka.

The Sun Dance, also termed the Thirsting Dance by the Utes, Medicine Lodge by the Cheyennes, Making a Home by the Assiniboines, and Cliff or Protection Lodge Dance by the Kiowas, had a power which seemed to threaten certain non-Indians. Agents of the Bureau of Indian Affairs banned Sun Dances on reservations they controlled as early as 1884. The last Sun Dance on the southern Plains was held in 1887, but that dance was only a shadow of earlier ceremonies because of the lack of buffalo.[21] Prohibition of ceremonies influenced changes already being made in the Sun Dances of the Plains tribes.

Plains Indians had learned to accommodate governmental regulations and retain the core of their customs and traditions. These lessons aided them in preserving the Sun Dance as well as other spiritual rituals. Where Indian agents particularly prohibited self-laceration tribes omitted that aspect of the Sun Dance. On other reservations Plains tribes retreated to remote places to hold their ceremonies.[22]

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[21]Maurice Boyd, Kiowa Voices: Ceremonial Dance, Ritual and Song. 2 Vols., Fort Worth: The Texas Christian University Press, 1981, I, p. 24.

[22]Tom Holm, "Indians and Progressives: From Vanishing Policy to the Indian New Deal," unpublished Ph.D. dissertation, University of Oklahoma, 1978, pp. 72-80, passim.

Northern Cheyennes changed the name of the Sun Dance to Willow Dance and requested their agent's permission to exercise freedom to worship in their old ways, a request he granted for several years.[23] In the south, Cheyennes and Arapahoes also changed their name for the Sun Dance. Since the date for this ceremony was fixed only within the summer months, Cheyennes and others planned their annual meeting on the longest holiday weekend of the summer -- the fourth of July national holiday. That portion of the dance which Cheyennes allowed outsiders to view appeared to be similar to a county fair, a seemingly innocuous gathering. The spiritual renewal core of the ceremony never intruded on an outsider's understanding of the event.[24]

Like the Handsome Lake religion of Iroquois tribes, Plains tribes' Sun Dances have survived. Both of these spiritual movements have been able to adapt to changing circumstances. Both have retained or returned to ancient teachings while discarding newer additions. Their flexibility has allowed them to grow and aid their people through difficulties in learning to live confined on reservations to accepting small allotments of land to intrusions of the dominant society in the most remote and

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[23]Powell, Sweet Medicine, I, p. 339.

[24]See, Lame Deer, Lame Deer, pp. 198-213; Brown, The Sacred Pipe, p. 67-100; Joseph G. Jorgensen, The Sun Dance Religion, Power for the Powerless. Chicago: University of Chicago Press, 1972.

hidden recesses of tribal life. As Lame Deer stated:[25]

> . . . in many ways the dancers of today are braver than those of days gone by. They must fight not only the weariness, the thirst and the pain, but also the enemy within their own heart -- the disbelief, the doubts, the temptation to leave for the city, to forget one's people, to live just to make money and be comfortable.

As Indian agents of the federal government banned Sun Dance ceremonies another spiritual movement was reaching American Indians in their time of defeat and despair, disease and degradation. They also faced the determination of the United States military to pacify or exterminate all dissident tribes to make the west safe for surveyors, settlers, and the trans-continental roads. About the same time that the Union Pacific railroad was completed, 1869, Wodziwob, a Paiute Indian, received his first vision. Military men on duty in Nevada noticed new native teachings centered on revelations to a Paiute named Tavibo. Whether Wodziwob and Tavibo were the same person or only preaching the same doctrine they both proclaimed the end of this world and establishment of a new and pure world to take its place. Accomplishment of this goal differed, however, between the two prophets. Wodziwob learned in his vision that all the spirits of dead Paiutes would return to this earth which would become a paradise with eternal life for

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[25]Lame Deer, Lame Deer, p. 211.

all and no distinction among races. Tavibo, however, taught that all non-Indians would vanish in a great cataclysm, along with American Indian unbelievers.[26] One or both of these prophets took their prophecies to converts throughout Nevada, Idaho, Utah, and California.[27]

After a series of at least three visions all of which prophesied disaster for those who failed to believe that non-Indians would perish while Indians would live on a renewed earth with a plenitude of animals Tavibo died. With the death of their prophet his followers worried and anxiously awaited the promised cataclysm. As nothing worse than usual happened converts began to lose faith. Forfeiting faith meant sacrificing hope of a better world, a sacrifice they could ill afford to make. Nevertheless they waited and worried and tried to find comfort in news of mysterious happenings farther west, but deliverance in the form of a new prophet lay at home.

When Tavibo died he left a teen-aged son, Wovoka. A local rancher took the young man to raise in his home giving him the name Jack and his own surname, Wilson.

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[26]Mooney, Ghost Dance, pp. 701-703.

[27]Russell Thornton, paper delievered at "Native Land Relationships and the Frontier Experience" conference, American Indian Historians Association and D'Arcy McNickle, Center for the History of the American Indian, Newberry Library, Chicago, March 17, 1984; A. H. Gayton, "The Ghost Dance of 1870 in South-Central California," University of California Publications in American Archeology and Ethnology, XXVIII (1930), pp. 57-60.

Working for Mr. Wilson, Jack or Wovoka learned some English and something of Christianity. When he was about thirty he experienced a vision. He had suffered a high fever and apparently died. His death was made all the more startling because it occurred during a solar eclipse. Wovoka described his experience:[28]

> When the sun died, I went up to heaven and saw God and all the people who had died a long time ago. God told me to come back and tell my people they must be good and love one another, and not fight, or steal, or lie. He gave me this dance to give to my people.

Similarities to earlier religious movements abound. The experience of a vision during an illness in which the prophet appears to have died recalls Neolin, Tenskwatawa, Handsome Lake, John Slocum, and Smoholla. Similarities of doctrine are present as well. In common with earlier prophets Wovoka prophesied the reunion of all Indians living and dead and all animals of the earth on a renewed earth. An omnipotent God required nothing of the people to make this regeneration occur although their participation in a sacred dance given to Wovoka would hasten the cataclysmic day. Wovoka admonished them to "do no harm to anyone. Do right always." Each tribe that listened to the prophet interpreted his teachings within its own tribal traditons. Wovoka had told them not to cry for the dead

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[28]Mooney, Ghost Dance, p. 764.

because their condition was only temporary and soon they would be alive and reunited with their friends and relatives again. Potential converts journeyed to Paiute country with a hope of such a reunion. Others danced and hoped for the return of a world pure and new, richly supplied with animals and plants. Cheyennes hoped for a new earth to replace their exhausted one and Arapahoes interpreted how this would occur through fire. Kiowas envisioned a new world sliding over the old one.[29] They named the ceremony the "feather dance," because sacred feathers would raise them onto the new world.[30] Kiowas and other Southern Plains tribes particularly hoped for the return of the buffalo, mainstay and symbol of freedom, and past glories: "They said the spirit force was coming; They said the buffaloes and the braves had arisen; But as the moon fell westward across the sky, That was our story in the stars."[31]

Dancing as hard as they might, tribes from the Plains to the Pacific coast found no more buffalo, no regenerated earth, no reunions with deceased kin, but they still hoped. They continued to hope on the Southern Plains long after Lakotas on the Northern Plains suffered the death of

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[29]LaBarre, Ghost Dance, p. 230.

[30]Boyd, Kiowa Voices, I, p. 89.

[31]Ibid.

their dream in the bloody snow at Wounded Knee. Southerners blamed Lakotas for trying to hasten the coming of a regenerated world. Other tribes, who long fought Lakotas for dominance over their territory, accused them for their warlike manner, for trying to do the work of the Great Spirit.

Although the Kiowa tribe was divided, some of them danced their "feather dance" until forced to quit in 1916.[32] Some of the dancers among Southern Plains tribes also participated in revived traditional ceremonies and they and others shared in another religous or spiritual movement involving the ritualistic use of peyote. Kadohadacho and Hasinai tribes, Tonkawa, and other tribes living along the Gulf Coast as well as tribes living on the Southern Plains from the Arkansas to the valley of Mexico had practiced a peyote religion from ancient times. By the 1870's those tribes had shared peyote with neighboring tribes so that by the time of greatest Ghost Dance fervor most Southern Plains tribes also participated in peyote rituals. While peyote rituals had been present and in use among Southern Plains, Woodland, and Desert tribes for centuries other spiritual ceremonies caught the attention of non-Indian journalists, anthropologists, and histor-

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[32] Ibid., p. 98.

ians.[33]

The lack of journalistic and scientific attention was soon rectified. James Mooney became aware of peyote and its ceremonial use while working with Kiowas in 1891. Kiowas presented peyote to him as a medicine and as an aid in achieving visions. He reported:[34]

> So numerous and important are its medical applications, and so exhilarating and glorius its effect, according to the statements of the natives, that it is regarded as the vegetable incarnation of a diety, and the ceremonial eating of the plant has become the great religious rite of all the tribes of the southern plains.

The peyote religon had gradually changed from ancient usage as one of many plants within ceremonies to a central position. Focusing on a naturally occurring plant the ancient but altered beliefs and ceremonies served two important and continuing purposes for Plains Indians during the nineteenth and twentieth centuries: the peyote religion would serve as a bridge between traditional faiths and the realities of contemporary life -- a way of life limited by outsiders; and it would serve as a basis upon

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[33]For a discussion of the relative dating of the Ghost Dance and the Peyote Religion, see Omer C. Stewart, "The Peyote Religion and the Ghost Dance," The Indian Historian, V, No. 4 (Winter, 1972), pp. 27-29.

[34]James Mooney, "The Mescal Plant and Ceremony," The Therapeutic Gazette (January, 1896); James Mooney, "Papers on the Indians," Ayer Collection, Newberry Library, Chicago, Illinois.

which to build a pan-Indian movement uniting peyotists of many tribes.

Peyote seemed to fulfill all the requirements of deliverance from the pain, disaster, and crisis of nineteenth century life on the Plains. The form and kind of deliverance, however, was different from that offered by other spiritual movements of the period. Peyote offered a way to live in an alien, Euro-American world that surrounded them by creating a regeneration of their original, harmonious condition in an altered environment. Other religions sought a world without Euro-Americans. Prophets such as Neolin, Tenskwatawa, and Wovoka promised a return to a Golden Age. The peyote religion offered a means to live in this age.

As the peyote religion began to spread, new believers listened to legends describing how peyote had first come to American Indians. Although tribes had different stories, most of them contained a similar base in which peyote had rescued a woman, or sometimes a man, by speaking to her in her despair, directing her attention to a small cactus hidden under a bush and advising her to eat it. After doing so, she would find strength and knowledge to find her way back to her tribe.[35] Peyote had spoken and shown the

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[35]See, Kelly Yellowhead, "Indian Pioneer History," XI, pp. 599-600, Indian Archives, Oklahoma Historical Society, Oklahoma City, Oklahoma.

way, aiding a lost one through all three of its principal functions -- teaching, healing, and revelatory knowledge.

All functions of peyote represent a blending of traditonal religous beliefs, myths, and rites, and a realization of changing living conditions. Relationships of man to the natural world as well as to the supernatural have posed traditional questions for American Indians. Harmony among the three -- human, natural, and supernatural -- aspects of life forms an integral part of traditional and modern American Indian spirituality.

Mystical knowledge has always held supreme importance in American Indian spirituality. Personal experience of communion with the Great Mystery or Supreme Being grants knowledge. Receiving information from another person is a poor second-best compared to receiving enlightenment directly from the supernatural. Peyote aids this communication by imparting inexhaustible knowledge to communicants.

Carrizos and Lipan Apaches, Tonkawas, Caddos and other Gulf Coast tribes and Taos, Queres, and Isleta pueblos had a lengthy history of peyote usage for its healing and vision-producing functions. Kiowas and Comanches accepted a peyote ritual as a means of gaining power through visions and as a medicine. Kiowas and Comanches traditionally sought power, individually and communally, through visions. Vision-seeking held a central place in their

spiritual as well as secular life.

In addition to its vision-producing effects, peyote was prized by Southern Plains tribes for its healing powers. Comanches approved medicinal use of peyote after Quanah Parker, Chief of the Quahada band, recovered from a severe illness on a visit to Texas where an old Mexican medicine woman cured him with a peyote tea. When his health improved he attributed it to peyote. Although previously he had been hostile to the peyote religion, after this experience he advocated its use to his people and to the Kiowas.[36] From these tribes the peyote religion spread throughout the tribes of central and western Indian Territory, northward throughout the Northern Plains to tribes in Canada and westward to Navajos, Utes, Paiutes, and Goshiutes, Washos, to California and Pacific Northwest tribes.

Each tribe accepted the peyote religon in its own way, either receiving it wholly from another tribe or by making changes to bring the doctrine and ritual in line with traditional ceremonies and beliefs. Some peyote groups show a definite Christian influence and emphasis, others eschew any reference to Jesus Christ or Christian dogma. All, however, function as a spiritual guide to their members much as Christian churches, and all recognize

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[36]Boyd, Kiowa Voices, I, p. 105.

peyote as a sacrament, much as Christian liturgical churches apply bread and wine as divine sacrament in a Holy Eucharist.

CHAPTER VII

PEYOTE BELIEFS, RITUALS, AND FUNCTIONS

Communicants claim that when you ingest peyote you can see yourself as God or the Great Mystery sees you. The peyote experience of communion with and revelation from a Supreme Being occurs between an individual and the deity with no mediator except that provided by peyote, although it happens within a community setting.[1] Perhaps the most fundamental belief peyotists hold is their immediate and personal interaction with the Supreme Being. Although occasionally prayers appear to be addressed to peyote itself, as a divine incarnation, the prayer actually soars to God through the intercession of peyote.[2]

Traditionally, Indians have believed that the Supreme Being, the Creator, or the Great Mystery has great or supreme power. Plains tribes and others have believed from earliest times that they might share in or absorb this power. The meaning of the Dakota name for the Creator or Supreme Being -- Wakan Tanka -- means "Holy Power." For Winnebagoes their word means "All Powerful" and for Ojibwes

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[1]George and Mabel Harris, Doris Duke Collections, T-199, p. 3, Western History Collections, University of Oklahoma, Norman, Oklahoma.

[2]Jess Rowlodge. Duke Collections, T-172.

Git chi manitou means "Most Powerful and Kind Spirit."[3] The Supreme Being may have other attributes within ancient religions, varying from tribe to tribe, but all agree that the Supreme Being is the source of Supreme Power.

The Great Mystery is the source of all that is in creation. The Supreme Being is neither good nor bad, but just is. While many tribes incorporate a concept of evil into their world-views, few understand or accept a Christian idea of sin, particularly in the sense of original sin -- a "fallen" state in which humans labor. Yet Peyotists like other Indians recognize that some thoughts and actions cause disharmony among people and the rest of creation while other actions bring peace and accord. Generally, Indian codes of conduct presume a belief in harmony of all things. In this accord all things become one, each a component of another, interacting as integral parts of a whole. Peyotists believe in a basic goodness of humanity, the Supreme Being and all of creation.

Consistent with beliefs in the goodness of humanity and harmony with the Great Mystery and the natural world, peyotists have taken several other traditional American Indian values into their doctrine. One important tenet is the value and importance of knowing and being oneself.

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[3]Christian Cavender (Wahpeton Dakota), Lecture at the University of Illinois at Chicago Circle, Chicago, Illinois, June 30, 1983.

To live in harmony requires knowledge both of oneself and of the rest of creation, and to act in accordance with that knowledge. Traditionally, American Indians have achieved this recognition through vision quests, rituals at puberty, and information imparted by tribal elders. Life in twentieth century America makes these methods of gaining knowledge increasingly difficult in most cases and impractical in others. Thus, many Indians turn to peyote ceremonies in an attempt to learn about themselves and their relationship to the Supreme Being and to the natural world.[4]

Another significant belief, basic to the peyote religion, is a corollary of living in harmony -- a reverence for all life. Indians, generally in their traditions, revered all life in their understanding of an interdependence among all parts of creation. In this view of the world and life creation is circular in that nothing can be removed from the creative process without it returning in some form, although altered.

Peyote doctrine, stressing personal revelation, emphasizes individual communion and commitment. Participants believe that each person must come to the peyote religion by himself: he must make his own decision. Yet, each member of a peyote chapter shows a common concern for

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[4]Thomas Bentley Interview, Duke Collections, T-272-1, p. 8.

other members. Generosity is a respected and expected attribute among American Indians, traditionally and in the twentieth century. Peyotists share what they have with fellow members as a symbolic return for sustenance given in the past or yet to be received in the future. This belief carries with it a corollary -- brotherly love. Peyotists try to be honest, truthful, and helpful to one another -- similar traits to those advocated in the "Golden Rule." Knowledge of oneself helps a person to recognize latent desires and goals and, by extension, aids in understanding relationships with others.

Caring for one's family constitutes another admonition usually found in peyote prayer meetings. While serial marriages occur commonly in the twentieth century as well as in the past, concern for elders and children within a family unit incorporates traditional values as well as Christian virtues.

Admonitions expressed in peyote meetings parallel those found in Christianity's Decalogue with a few exceptions. Peyotists honor their father and mother, exhort their members not to kill, nor commit adultery, nor steal, nor lie. Peyote groups which have taken a Christian approach to God would add the remaining five commandments. Unquestioningly Peyotists traditionally and contemporarily have accepted the second great commandment of Christianity: "Thou shalt love thy neighbor as thyself." If we

can construe "neighbor" to include all of creation, Indians, traditionally, and Peyotists, particularly, have revered that commandment above all else. Peyotists have interpreted that admonition as a reverence for all creation, a respect for others whether they be human, animal, or supernatural.

In their attempts to attain harmony with and perfect reverence for all creation, Peyotists ingest peyote -- dried or fresh, sliced or ground, or boiled with water into a tea -- to learn about themselves and others. Through peyote a communicant establishes communications through spirits with the Supreme Being and discovers how he should behave toward the natural and supernatural worlds.[5]

Correct conduct, sometimes termed "walking the Peyote Road," is achieved through the aid of peyote and maintained principally through strong beliefs in respect, generosity and harmony. Many communicants believe that Grandfather Peyote knows and punishes those who stray from the Peyote Road. Antonio Apache, a Lipan Apache, stated:[6]

> . . . this chief peyote is pretty tough. It watches what is going on. It keeps everything straight. It is a plant, but it can see and understand better than a man. If someone has wrong

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[5]Lyman Kionute (Caddo), personal interview, Caddo County, March 6, 1980.

[6]Morros E. Opler, "The Use of Peyote by the Carrizo and Lipan Apache Tribes," American Anthropologist, n.s., XL, p. 279.

thoughts, he had better look out or he will go crazy.

Participants in peyote prayer meetings must think good thoughts because Grandfather Peyote will show him his true identity:[7]

> When they first start eating peyote they put their thoughts on something good, something they want, for they say whatever you are thinking about when you start is what you will see all during the night in your vision. Your mind cannot stray even a little. You must be thinking in a good way. Then you will learn all about peyote.

Peyotists frequently consider their misfortunes as punishment for bad behavior brought forth by Grandfather Peyote. In this manner Peyotists accept their bad fortune, recognizing their weaknesses and realizing the power of Grandfather Peyote. But the power of peyote has another side. Grandfather Peyote also protects. Communicants believe that peyote protects them in many ways -- healing wounds and curing diseases, giving them knowledge of unfriendly actions toward them by outsiders, allowing them occasional glimpses of the future, solving personal problems and relieving anxieties.

Protection through healing is an important component of the peyote religion and a major reason for some individuals and tribes to become interested in it. Many communicants believe that peyote is a universal panacea -- a

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[7]Ibid., p. 281.

cure-all for every disease and wound, whether mental, physical or spiritual. While Peyotists may utilize the services of the Indian Health Service or local hospitals and clinics, frequently they will turn to peyote, also, and particularly as a last resort, when all else has failed.

James Mooney, in his researches in the 1890s, discovered that individuals of the tribes he studied considered peyote particularly effective against consumption or tuberculosis. He later related an account of a young Kiowa who contracted consumption while in prison at Fort Marion, Florida:8

> . . . during nearly the whole of his four years in New York he was stretched upon a sick-bed, racked with cough and frequent hemorrhages, until at last, as there seemed no chance for life, he was sent back, at his request, to die among his own people. He arrived completely prostrated; and, being strongly urged by his Indian friends, he ate a few mescals -- with such speedy relief from the cough that he continued the practice. That was thirteen years ago, and he is still alive and in fairly good health, although he spits constantly, has occasional hemorrhages, and is not strong enough for hard labor . . . as he says, the mescal keeps him alive . . . .

Other anthropologists and ethnologists have recorded examples of healing occuring in peyote meetings. William Bittle documented a spontaneous restoration of movement to a paralyzed Kiowa woman. The peyote meeting focussed on her illness at which she was present and participating by

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8Mooney, "Mescal Plant," p. 17.

eating several peyote buttons. During the early morning hours she found that she was able to sit up and as the meeting came to a close she walked.[9]

American Indians, from their earliest memories, have assigned several causes to account for illness -- a lack of power or harmony, witchcraft or foreign objects within a sick person's body. The Navajo position is:[10]

> . . . harmony is health . . . .
>
> Navajos believe that there is a force of good, a great power, an energy that flows throughout all, and this force is brought into use in maintaining health through good and pure thought.
>
> The Navajo blessing way tells us that everything originate [sic] in thoughts, all creations that this primal energy permeates all things and partakes of the essence of the creator.

To Indians all aspects of life are interdependent. To Navajos all illness comes as a result of being out of harmony with nature, whether disharmony is caused by transgressions against one's own body in excesses of various kinds, or failure to keep pure thoughts, or lack of knowledge, will and power to keep evil thoughts of others from harming them.

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[9]William E. Bittle, "The Peyote Ritual: Kiowa-Apache," Bulletin of the Oklahoma Anthropological Society, II (March, 1954), p. 77.

[10]Carl Gorman, "Navajo Theory of Disease and Healing Practices," unpublished manuscript, in the author's possession.

Believing in this or similar forms of disease causation, Indians perceive several ways in which peyote might cure. A sick person might eat peyote, as in the examples mentioned earlier. Peyote itself could heal illness. Healing powers of peyote could have two possible explanations -- chemical and psychological.

In 1960, scientific researchers studied peyote to determine if it had any antibiotic effects. Their investigations demonstrated that peyote did, in fact, contain an antibiotic substance named by them, peyocactin. In their studies scientists found that peyocactin inhibited eighteen strains of penicillin-resistant Staphalococcus Aureus. Peyote, indeed, would have a beneficial effect on people complaining of fever or other symptoms suggesting an infection.[11] Indians, some of whom rarely attend a peyote prayer meeting, accept peyote as a medicine, making a tea from it to cure a cold. The Farmocopia Mexicana lists peyote as a remedy for hangovers from over indulgence in alcoholic beverages. The United States Dispensary has listed peyote under the name, Anhalonium, as medication for as diverse illnesses as neurastenia, hysteria, and asthma.[12] American Indians have utilized peyote in other

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[11]James A. McCleary, Paul S. Sypherd, David L. Walkington, "Antibiotic Activity of an Extract of Peyote (Lophophora williamsii, Lemaire, Coulter," Economic Botany XIV, no. 3, p. 249.

[12]Ibid., p. 247.

ilnesses, wounds and fractures. Peyote's pain-lessening properties have recommended its use in all instances of pain.[13] Non-Indians also have found peyote an acceptable medicine or for the alleviation of pain.[14]

Peyote may contain medicinal properties in addition to peyocactin for it has shown activity against a wide range of diseases, or the cures may have resulted from a kind of faith healing. Indian spirituality, with its emphasis on mystical knowledge and harmony, creates an atmosphere conducive to psychosomatic healing. Indians recognized long ago that a person who believes recovery is possible will more likely recover. Whether an illness has a physical base or whether it is psychosomatic, peyotists believe that peyote can cure illness. Each peyote group has stories of miraculous cures when non-Indian doctors had given the patient no chance of recovery. They attribute recovery to peyote medicine and to the prayers offered on behalf of the patient.[15] Demonstrated antibiotic activity, pain-alleviation and spiritual faith could combine to

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[13]Virgil J. Vogel, American Indian Medicine. Norman: University of Oklahoma Press, 1970, pp. 166-167.

[14]D. W. Prentiss, A.M., M.D. and Francis P. Morgan, A.B., M.D., "Therapeutic Uses of Mescal Buttons (Anhalonium Lewinii)," Therapeutic Gazatte, January, 1896, James Mooney, "Papers on the Indians," pp. 1-3, Edward E. Ayer Collection, Newberry Library, Chicago, Illinois.

[15]Edgar Monetathchi, "Lecture at the University of Science and Arts of Oklahoma," Chickasha, Oklahoma, April 11, 1984.

create cures. Reportedly miraculous recoveries have brought converts and served as a fundamental motive for the diffusion of a peyote religion throughout the Great Plains and the Southwest.[16]

Healing may come directly through eating or drinking peyote, or it may come through prayers to spirits recognized by the patient and others in a healing ceremony. American Indians call upon many different spirits to help them depending on their tribal background. Those spirits or Spirit Powers carry messages between Peyotists and the Great Mystery. Regardless of tribe, all Peyotists recognize a symbolic water bird as their messenger. Kiowas have given to other tribes a visual symbol of the peyote Messenger Bird in the form of a cormorant -- Anhinga anhinga. They term the Messenger Power Sayn-daw-kee, symbolizing the peyote bird, and might pray:[17]

> O Sayn-daw-kee (Messenger Power),
> Watch over me and save my spirit;
> The messenger bird listens to these prayers,
> The designs begin to come,
> The beauty of the day in the east becomes apparent,
> The inspiration rises, although often it is seen through a veil,
> Such as an object or a song.
> The rhythm of beauty begins to spread.

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[16]Richard Evans Schultes, "The Appeal of Peyote as a Medicine," American Anthropologist, XL, pp. 698-712, passim.

[17]Monroe Tsatoke, The Peyote Ritual: Visions and Descriptions of Monroe Tsatoke. San Francisco: Grabhorn Press, 1957, pp. 7-8.

The song rises.

The Messenger Bird carries prayers and revelations between Peyotists and the Great Mystery, and cements relationships of interdependence between Peyotists and the Earth or Mother Spirit -- Do-moi-ung-daki -- and the Sun Spirit -- Be-ger-daki. Customarily Kiowa Peyotists touch the earth and ask their Earth Mother to look upon them with mercy and favor and send them a prosperous life when they pray to her.[18] Other tribes send their prayers to the Supreme Being through a messenger bird, or stars and moon, or fire. The chief peyote is the plant incarnation of power and spirit.

American Indians traditionally have integrated their lives in such a way that every act was a religious act, and that spiritual way of living extended to animals and inanimate objects. Indians have acknowledged spirituality in all things, containing both good and evil as each encompasses the other. Charles Eastment wrote: ". . . he (the American Indian) recognized the spirit in all creation, and believes that he draws from it spiritual power.[19]

Spirits aid or hinder Indians in life and after death. Traditional tribal spirituality differs widely from one tribe to another in their belief of a life after

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[18] Ibid., p. 7.

[19] Eastman, Soul of the Indian, p. 47.

death. As tribal beliefs differ so also do Peyotists as each draws upon his own traditions. Navajo traditional beliefs in cessation of all life after death prevent Navajo Peyotists from accepting re-birth when they become Peyotists. Other tribes who have a long history of belief in a life after death readily accept that concept when they become Peyotists. Many tribes did have such a belief:[20]

> Certainly the Indian never doubted the immortal nature of the spirit or soul of man, but neither did he care to speculate upon its probable state or condition in a future life . . . . The primitive Indian was content to believe that the spirit which the "Great Mystery" breathed into man returns to Him who gave it, and that after it is freed from the body, it is everywhere and pervades all nature, yet often lingers near the grave or "spirit bundle" for the consolation of friends, and is able to hear prayers.

American Indians, whether Peyotists or not, offer prayers and memorials during a mourning period and on anniversaries of a death. As Eastman suggests, a spirit freed from its body may remain nearby while it is everywhere. Some tribes belive that a freed spirit must make a journey to reach its proper destination. Caddos think that a liberated spirit lingers for a time and then must journey through sand and other perils to reach its goal. Consequently, Caddos as well as many other tribesmen prepare a meal and place it on the grave to aid the spirit and give it strength for its passage to the world of spirits. Caddos also slit the

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[20] Ibid., pp. 155-156.

mocassin soles of the recently deceased person so that sand through which the spirit will have to pass will not detain or deter it. The alternative to reaching the spirit world, for most tribes, is interminable wandering -- a fate most Indians fear.[21]

Acknowledging a spirit world where a human spirit will join supernaturals and the Supreme Being or Great Mystery, Indians believe that although they may stray from a path that leads to their ultimate goal friendly spirits will eventually help them to regain their way. When a spirit wanders away, the Great Mystery may redeem the lost soul. Peyotists believe that a life devoted to disharmony can change by asking for aid, seeing oneself as Grandfather Peyote sees, and listening to the counsel offered. Legends of peyote coming to an individual depict redemption. Redemption or salvation of legendary heroes or heroines has gradually become a basis for Peyotists to accept a concept of the salvation of a people -- Indians -- through affirmation of a religion centered on the sacred plant -- peyote.

Peyotists consider Lophophora williamsii -- peyote -- their sacrament, a divine gift for Indians. Further, they attest that the ritualistic eating of bread and drinking of wine in a Christian Eucharist corresponds to their ritualistic eating of peyote in peyote services. As ordinary

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[21]George A. Dorsey, "Caddo Customs of Childhood," Journal of American Folklore, XXVII (1905), pp. 226-28.

bread and wine become sacred as a Christian priest blesses them, so also does peyote become sacred when it becomes the center of a peyote prayer meeting.[22] Similarities between the peyote religion and the early Christian church include more than a divine sacrament. The ceremonial breakfast which concludes a peyote service appears to parallel the early Christian practice of all communicants sharing a meal following the celebration of the Eucharist.

While all Peyotists would agree that their ritualistic usage of peyote is sacramental and parallels Christian usage of bread and wine as sacraments, only some peyotists would state that their religion has a Christian base. Others reject all notions of Christianity in their peyote prayer meetings, although individual Peyotists may attend Christian church services as well. Even though Southern Plains tribes such as Kiowas and Comanches initially resisted any Christian elements in peyote services they have recently accepted at least superficial symbols and tenets of Christianity.[23]

Several peyote groups believe that the Supreme Being they worship corresponds to that of Christianity. These groups either place a Christian Bible on the altar or read

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[22]Lonnie Emhoolah, "Lecture," University of Science and Arts of Oklahoma, Chickasha, Oklahoma, November 18, 1983.

[23]Ibid.; Weston Labarre, The Peyote Cult. Fourth Edition, New York: Archon Books, 1975, pp. 162-163.

from it during the service. They may design their altar to symbolize "the track of the mule that Jesus Christ rode . . . ."[24] Their meetings often commemorate Christian holidays as well as more usual purposes such as gratitude for recovery from illness, or safe return from a hazardous journey, to heal the sick or pray for health, to remember the dead, or for instruction and power through peyote. Without question Christianized peyote groups have accepted the divinity of Jesus Christ. The manner in which they have acknowledged that divinity varies, however, from one peyote group to another. Some peyotists view Jesus Christ as a symbol of their own culture heroes: others see Christ as a Guardian Spirit. Some consider Him as an intercessory or messenger Spirit between the Great Mystery and humans, in a role most Christians would assign to the Holy Ghost.[25]

American Indians have accepted some Christian beliefs while rejecting others. Peyotists have responded to Christianity just as their fellow tribesmen have. They have transformed those Christian doctrines they found acceptable to their needs and they have eliminated those they deemed unacceptable. Most Peyotists have thought the concept of the Christian trinity understandable in the

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[24]Thomas Bentley Interview, T-272-1, p. 8.

[25]James S. Slotkin, The Peyote Religion. Glencoe, Illinois: The Free Press, 1956, p. 69.

light of their own traditional beliefs in a Supreme Being which takes many forms. With the Christian trinity Peyotists have acknowledged Christian saints and angels equating them with traditional spirits, guardians, and powers. Peyotists in areas with a long history of Roman Catholic missions have accepted recognized saints of that church, particularly the Virgin Mary.[26] Some peyote groups, especially those influenced by the Caddo-Delaware innovator Nishkuntu, patterned their ceremony after the Roman Catholic ritual. Nishkuntu wanted the ritual of his version of his version of the peyote religion to be devout and reverent. He copied the Roman Catholic ritual because it seemed to him to fulfill his requirements.[27]

Christianized peyote groups function in all usual Christian forms. They administer the rites of baptism, marriage, reconciliation, and burial of the dead in addition to their usual sacramental worship. In baptismal rites Peyotists brew a liquid by steeping peyote in water which they then employ as a holy water with which they baptize initiates into their religion. Christianized groups baptize "in the name of the Father, and of the Son, and of the Holy Ghost."[28] Other tribal Peyotist groups --

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[26]Ibid., p. 69.

[27]Leona W. Dixon (Caddo, Great-niece of Nishkuntu), personal interview, Oklahoma City, February 11, 1980.

[28]Slotkin, Peyote Religion, p. 62.

Waterbird, Symbol of the Peyote Faith
A Drawing after Monroe Tsatoke

Omahas, Arapahoes, Kiowas, and Navajoes -- use a different form of baptism, still utilizing the Christian sign of the cross through blessed water in their baptismal rites.[29] Similar parallels between peyote rituals and those of the Christian religion occur in marriage, reconciliation, and burial ceremonies. Although several similarities exist between the peyote religion and Christianity one central factor emerges; both are sacramental faiths.

Both religions function in all aspects of spirituality. Both provide communion with their deity through their sacraments. Both acknowledge similar precepts for living a good life.[30] While the peyote religion has no written doctrine most peyotists agree about several beliefs: a belief in a Supreme Being, a Creator of all that is which is comparable to the Christian belief "in one God, the Father, the Almighty, maker of heaven and earth, of all that is, seen and unseen";[31] some accept the divinity of Jesus Christ while others ignore that portion of the Christian creed; all believe in spirits which appear to be akin to the Christian Holy Spirit, spirits which come from the Great Mystery to communicate with humans much as

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[29]Ibid., p. 62.

[30]Emhoolah Interview, November 18, 1983.

[31]The Book of Common Prayer and Adminsitration of the Sacraments . . . of the Episcopal Church. New York: The Seabury Press, 1979, p. 326.

Christians believe: "in the Holy Spirit, the Lord, the giver of life, who proceeds from the Father and the Son. With the Father and the Son he is worshiped and glorified. He has spoken through the Prophets."32

While much similarity exists in doctrine between the peyote religion and Christianity major differences in ceremonies obscure analogies and parallels. Peyote prayer meetings usually follow the traditions of the tribal affiliation of the peyote leader, necessitating variations among rituals. Anthropologists and ethnologists have found these diverse ceremonies an interesting field of study while thay have ignored beliefs which undergird the outward form. .

While outsiders, serious students, and curious onlookers, have considered ritual variances among tribal peyote groups absorbing, peyotists regard such differences unimportant. Peyotists consider, however, the talk and writings by outsiders, scholarly or not, about a meeting they might have attended as sacreligious. Oklahoma Peyotists particularly resent such incursions. Leaders of the Oklahoma peyote religon require that their members request permission before they discuss peyote ritual with anyone. They have stated that such information belongs only in the tipi. While some of the younger members have

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32Ibid., p. 327.

expressed a desire for one of their own members to write a correct description of peyote religion, beliefs, and ritual, elderly traditionalists refuse.[33]

Oklahoma Kiowas seem the most reticent of all Peyotists. Anthropologists have studied their ritual in detail and many Kiowas think their religion has been misconstrued,[34] which may account for their current reluctance to speak -- a silence not always honored by other tribal Peyotists. Peyotists outside of Oklahoma have recognized some need to educate outsiders.[35]

Honoring the requests of the Oklahoma Conference, this study suggests that descriptions of peyote religion ritual appear in numerous books, articles, and monographs about particular tribal peyote groups. An interested reader will have no difficulty in locating detailed studies of peyote

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[33]Donald Chaino Ahkeahbo (Kiowa, former President of the Oklahoma Conference of the Native American Church), personal interview, March 28, 1978, Oklahoma City; lecture, December 5, 1978, University of Oklahoma, Norman, Oklahoma.

[34]Ibid., March 28, 1978. Mr. Chaino stated that the book Peyote written by Alice Marriott and Carol Rachlin gave a false impression of Kiowa ritual because their information was incorrect.

[35]Douglas Long (President of the Native American Church of North America), lecture, Center for the History of the American Indian, The Newberry Library, Chicago, Illinois, April 4, 1983.

rituals.[36]

Reticence on the part of some Peyotists combined with a perception of its exotic nature on the part of some United States Indian agents, law enforcement officials, and

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[36]For a general description of the peyote religion rituals, see: Walter W. Snyder, "The Native American Church, Its Origin, Ritual, Doctrine and Ethic," Bulletin of the Oklahoma Anthropological Society, XVIII (November, 1969), pp. 13-38; Silvester John Brito, "The Development and Change of the Peyote Ceremony through Time and Space," unpublished Ph.D. dissertation, Indiana University, 1975; Carol Hampton, "The Sacrament of the Native American Church: Peyote," unpublished M.A. thesis, University of Oklahoma, 1973; Weston LaBarre, The Peyote Cult; James S. Slotkin, The Peyote Religion; Vittorio Lanternari, The Religons of the Oppressed: A Study of Modern Messianic Cults. trans. by Lisa Sergio, New York: Alfred A. Knopf, 1963; for descriptions of specific tribal peyote religion rituals, see: Bittle, "The Peyote Ritual: Kiowa-Apache;" Kenneth L. Beals, "The Dynamics of Kiowa-Apache Peyotism," unpublished M.A. thesis, University of Oklahoma, 1967; Stephan R. Feraca, "Peyotism," Pine Ridge Research Bulletin, X (August, 1969), pp. 34-45; David Aberle, The Peyote Religion Among the Navajo. New York: Wenner-Gren Foundation for Anthropological Research, 1966; Aberle and Omer C. Stewart, Navajo and Ute Peyotism: A Chronological and Distributional Study. Boulder: University of Colorado Press, 1957; Stewart, "Washo-Northern Paiute Peyotism: A Study in Acculturation," University of California Publications in American Archaeology and Ethnology, XL, no. 3, pp. 63-102; Carling Malouf, "Goshiute Peyotism," American Anthropologist, n.s. XLIV (1942), pp. 93-103; Kenneth N. Hopkins, "Peyotism and the Otoe-Missouria Indians of Oklahoma," The Oklahoma State Historical Review, XI (Spring, 1981), pp. 1-16; Paul Radin, "The Autobiography of a Winnebago Indian," University of California Publications in Anerican Archaeology and Ethnology, XVI, pp. 430-473; Morris E. Opler, "The Use of Peyote by the Carrizo and Lipan Apache Tribes;" Stewart, Ute Peyotism: A Study of a Cultural Complex. University of Colorado Studies, Series in Anthropology, No. 1. Boulder: University of Colorado Press, September, 1948. Several interviews in the Doris Duke Collection describe peyote meetings. For those descriptions, see: Jess Rowlodge, T-169 and T-247; Alfred Chalepah, M-34; Sadie Weller, T-68-1.

self-proclaimed "guardians of public morals" have led to harassment, opposition and outright prohibition of the peyote religion. American Indians have allowed popular images of their spirituality to stand uncontested. Peyotists have preferred to remain silent when their religion has been misunderstood, speaking out only when arrested and tried in court for their religious practices.

CHAPTER EIGHT

OPPOSITION TO THE PEYOTE RELIGION

The peyote religion as it developed and spread during the last quarter of the nineteenth and into the twentieth century experienced growing opposition. With the conclusion of the Civil War the United States government had resumed its goal of Indian cultural extinction. Indians would become extinct by reason of assimilation or death, either way they would disappear. Government partisans hailed assimilation of native peoples into the midst of American society as a great humanitarian adventure. Indians viewed the proposal differently -- a few gladly, most warily.

Tribal members who had largely adopted Anglo-American culture rejoiced in what they thought would be their ultimate acceptance. Some tribes reacted cautiously while others fiercely resisted any further encroachments upon their integrity and identity. Among Indians opposing the concept of assimilation were tribes far apart both in terms of space and traditions. Their response to cultural danger, however, united them in an inner withdrawal and recourse to a Pan-Indian religon -- the peyote religion.

In 1886, J. Lee Hall, agent for the Kiowa, Comanche, and Wichita Agency, recognizing a powerful opponent to the goal of assimilation, suggested that the Bureau of Indian

Affairs prohibit the use of peyote on the reservation. He was the first United States official to do so.[1] Two years later the Kiowa, Comanche, Wichita Indian agent E. E. White did issue such a ban.[2] Further, the Bureau of Indian Affairs recommended to Congress legislation banning Indian names, dress, rituals, and use of peyote. Indian agents in requesting prohibitory legislation expected that a ban on peyote would effectively destroy the religion -- their objective.

Congress, however, failed to approve the requested legislation. Undeterred by a lack of Congressional action, Indian agents confiscated peyote whenever they found it in the possession of American Indians. They attested to the legality of their actions by claiming that peyote was an intoxicant and therefore subject to seizure under already existing laws for the suppression of alcoholic beverages in the possession of Indians. No scientific studies had proven that peyote intoxicated and, yet, government officials aided by Christian missionaries and church groups

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[1]J. Lee Hall, U.S. Indian Agent, Report to the Commissioner of Indian Affairs, August 26, 1886, Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1886. Washington: Government Printing Office, 1886, p. 130.

[2]E. E. White, U.S. Indian Agent, Report to the Commissioner of Indian Affairs, n.d., Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1888. Washington: Government Printing Office, 1888, pp. 98-99.

made such an assumption.[3]

Indians, recognizing a difference between alcoholic beverages and the cactus plant which had come to them as what they claimed was a divine gift, little understood prohibitory actions taken by local representatives of the Bureau of Indian Affairs. Although tribesmen of the Kiowa, Comanche, and Wichita reservation had little comprehension of the political situation, they defended their ceremonies using peyote as a religion as Christianity is a religion with guarantees of protection under the First Amendment to the Constitution of the United States. Their usual political resources -- petitions, memorials, tribal and inter-tribal delegations to Washington, intercession by pro-American Indian individuals and organizations -- achieved some success in affecting a governmental policy determined to accomplish cultural uniformity. No federal legislation concerning peyote use became law. Failing to gain the requested legislation in Congress, opponents of peyote usage turned to state and territorial legislatures.

Lobbying those state and territorial legislatures wherein Indians worshipped with the aid of peyote as sacrament, advocates of cultural uniformity succeeded in their efforts with the Oklahoma Territorial Legislature in 1897 when it adopted the first law in the United States

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[3]Slotkin, Peyote Religion, p. 51.

prohibiting peyote by name.[4] Although the Spanish crown had pronounced edicts prohibiting use of peyote, the Oklahoma Territorial Legislature was the first among political entities within the United States to ban peyote.

Peyotists continued to worship by praying to the Great Mystery through the power of peyote and other Indians visited prayer meetings and took up a peyote religion, adapting it to their own traditions. From its inception among Gulf coast tribes and tribes in regular contact with northern Mexican tribes the peyote religon spread northward. Members from all tribes in Oklahoma Territory accepted the peyote religon and shared it with some tribes in Indian Territory after the legislative prohibition. Osages remember that the peyote religion came to them from the Caddos, particularly from Nishkuntu, about the time of the ban.[5] Others recall a much earlier date -- some twenty years -- as their first experience with the peyote religion.[6]

Northern Cheyennes and Arapahoes, visiting their relatives in Oklahoma Territory learned of the peyote religion and carried it to their homes when they returned

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[4]Minutes of the Oklahoma Territorial Legislature, 1897. Cheyenne-Arapaho Vice Files, Indian Archives, Oklahoma State Historical Society, Oklahoma City, Oklahoma.

[5]Katharine Maker Interview (Osage), Doris Duke Collection, T-341-B, p. 2.

[6]Lyman Kionute, personal inteview, March 27, 1978.

where they shared it with other Northern Plains tribes. John Rave of the Winnebago tribe introduced the peyote faith to his tribe after a visit to friends in Oklahoma Territory in 1893-94. Also during this period students at United States government boarding schools adopted the peyote religion while home on visits and then shared the faith with fellow students on their return to school. In spite of prohibitions the peyote religion spread along a network of students, friends, and relatives as they travelled to visit one another.[7]

By 1919 the peyote religion had spread throughout the Plains. The Bureau of Indian Affairs in that year sent out a circular to all Indian schools and agencies requesting information on peyote use.[8] While the figures in Appendix B, on page 256, suggest that peyote use was restricted at that time to tribes living on the Plains almost entirely, the validity of these responses, however, must be tempered with allowance for ignorance on the part of Indian agents of a prohibited religion. Peyotists quite likely would hide their activities as much as possible in the face

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[7]Donald Berthrong, The Cheyenne and Arapaho Ordeal: Reservation and Agency Life in the Indian Territory, 1875-1907. Norman: University of Oklahoma Press, 1976, pp. 216-217.

[8]Circular #1522 and answering letters, Office of Indian Affairs, Department of the Interior, Bureau of Indian Affairs Classified Files, National Archives, Washington, D.C.

of official disapproval.

Prohibition of peyote use little hampered the diffusion of peyote worship throughout the Plains. Governmental authorities saw little reason to prosecute the religon or its adherents until 1907. In that year a zealous farmer hired to teach Cheyennes and Arapahoes to farm their allotments went to the local police force in El Reno and informed them that a peyote ceremony would take place soon at a site near El Reno. Police officials, using the 1897 law, appeared at the peyote prayer meeting and arrested three men -- Reuben Taylor, Howling Wolf, and Percy Kable -- for possession of peyote, who stood trial and were convicted.[9]

By 1907 Indians no longer fought their battles against an ethnocentric government alone. They had enlisted powerful allies among lawyers and anthropologists. These friends aided vocal peyotists in Oklahoma Territory in requesting a hearing from the territorial legislature on what appeared to be an unconstitutional law prohibiting exercise of an American religion -- a religion practiced in good faith by American citizens. Quanah Parker, a well-known Commanche peyotist, led a delegation consisting of both Indians and non-Indian allies to testify before the

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[9]Letter from C. F. Larrabee, Acting Commissioner of Indian Affairs, May 10, 1907, Cheyenne-Arapaho Vice File, Box 1.

legislature of the newly admitted state of Oklahoma. As a result, in 1908, the first Oklahoma State Legislature repealed the anti-peyote law.[10]

Recognizing that they were likely to lose the ban against peyote in Oklahoma, federal Indian agents at the Cheyenne-Arapaho agency at Darlington and at the Kiowa-Commanche-Wichita agency in Anadarko began a campaign to prohibit the use of peyote at the federal level with legislation in Congress. In the meantime, however, a 1907 Indian Bureau Appropriation Act was open to interpretation of peyote prohibition under a provision meant to suppress the liquor traffic. Acting Commissioner of Indian Affairs C. F. Larrabee promptly assigned Chief Special Officer William E. "Pussyfoot" Johnson to put an end to both the liquor traffic and peyote possession.[11]

Uncultivated, peyote grows only south of El Paso in the United States.[12] Since the area in which it grows is sharply limited, Special Officer Johnson decided to carry out his mission by destroying the plant in the fields in Texas, buy up all harvested peyote plants from dealers and

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[10]Unsigned Minutes of a meeting on paper with letterhead, "The First Legislature of the State of Oklahoma," dated Januray 27, 1908, Cheyenne-Arapaho Vice File, Box 1.

[11]Letter from C. F. Larrabee to William E. Johnson, dated June 4, 1908, Cheyenne-Arapaho Vice File, Box 1.

[12]Omer C. Stewart, "Origin of the Peyote Religion in the United States," Plains Anthropologist, XIX (1974), p. 212.

stop importation of peyote from Mexico by enlisting the aid of customs officials. He wrote intimidating letters to all Texas dealers demanding that they desist selling peyote to Indians and by 1909 nine merchants had sold their entire stock of peyote, about 200,000 cactus buttons, at $2.50 per thousand to Johnson. Surely he thought he controlled the peyote traffic although one dealer, Wormser Brothers of Laredo, refused his offers and threats.[13]

In September, 1909, Johnson had written letters to all known Peyotists, warning them that possession and transportation of peyote was illegal. In 1910, however, officials in the Bureau of Indian Affairs decided to moderate the prohibition by permitting Indians to travel to Texas and Mexico to gather sacred and medicinal plants. They kept a record of names of Indians who bought round-trip train tickets to Corpus Christi, Texas, "for the purpose of entering Mexico to obtain a supply of peyote." The Bureau authorized an allowance of five hundred peyotes as personal baggage to be brought back from a peyote pilgrimage. Federal policy remained the same -- prohibition of peyote -- but officials in the Bureau of Indian Affairs thought resistance to the ban would less likely become unmanageable

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[13]Letters from Johnson to Indian Agents, May 4 and November 18, 1909, Bureau of Indian Affairs Classified Files, Box 2, National Archives, Washington, D.C.

if prohibition began gradually.[14]

"Pussyfoot" Johnson and others in the Bureau disliked this ambiguous peyote policy and considered the cactus an intoxicant. Johnson's letter to the Cheyenne-Arapaho superintendant stated his position:[15]

> . . . I have had all sorts of trouble about peyote during the past eight months. Some folks high in authority in the Indian Service got it into their gray matter that I was wrong in this peyote business and that peyote was not a bad thing after all. They even got Comm. Valentine a little confused about this matter.
>
> In the meantime one or two Oklahoma Indians hired one or two smart lawyers and they were threatening to bring Court proceedings on the ground that Oklahoma Indians were citizens and that being citizens that Act of 1897 did not fit. There was some merit in the contention, as you know, and I want to avoid that.
>
> Then Congressman Scott Ferris of Oklahoma got to making trouble and also Attorney Kappler for the Osage Indians.
>
> I went down to Washington and fixed up a new regulation to the effect that while shipping was barred, any Indian could go to Mexico and come back with five hundred peyote in his personal baggage. The Indian officers agreed to stand by me on this proposition and Scott Ferris and the lawyers agreed to hold the Indians down to this same program. It seemed to me the best that I could do under the circumstances.
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> Trouble has already developed under this regulation as the peyote prophets seem disposed to try and play tricks on us. We have seized and destroyed so

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[14]Letter from Johnson to F. W. Carothers, February 21, 1910, Bureau of Indian Affairs Classified Files, Box 2, National Archives, Washington, D.C.; Letter from F. H. Abbott, Assistant Commissioner of Indian Affairs, to William B. Freer, Superintendent of Cheyenne-Arapaho Indian School, received September 19, 1910, Cheyenne-Arapaho Vice File, Box 1, Oklahoma Historical Society.

[15]Letter from Johnson to Charles Shell, June 27, 1910, Bureau of Indian Affairs Classified Files, Box 2, National Archives, Washington.

> far over 10,000 peyote. If this thing doesn't work, and I don't believe it will work, I hope to get back to the old basis if possible.

Hoping to "get back to the old basis," "Pussyfoot" and other officials successfully attempted to include peyote, specifically, in a prohibition of the liquor traffic in the annual Indian Bureau Appropriation act -- appearing in appropriation bills in 1912, 1914, 1916 through 1920 and 1923 to 1934. In 1915, Henry A. Larson, Special Officer in Denver, and colleague of "Pussyfoot" Johnson, made a suggestion somewhat ahead of its time. He recommended that the federal government might best suppress peyote by including it under the provisions of the 1914 Harrison Narcotic Act, relating to habit-forming drugs.[16] While this suggestion was rejected by the Attorney General it began a shift in classification of peyote from intoxicant to habit-forming drug -- from liquor to narcotic.

Agents of the Bureau of Indian Affairs had prosecuted their case against peyote almost alone among governmental agencies until 1915, when Bureau officials prevailed upon the Department of Agriculture to rule peyote dangerous to health. This regulation, rescinded in 1940, banned all shipments of peyote through the postal services. The Bureau of Indian Affairs, however, gained support from

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[16]Letter from Henry Larson to the Commissioner of Indian Affairs, May 11, 1915, BIA Classified Files, Box 2, Part 3, National Archives, Washington, D.C.

organizations outside of government. Lake Mohonk Conferences on the Indian debated the issue of peyote, and their 1914 platform condemned it and demanded its prohibition. The members were divided, however, and argued that the issue needed further examination, prompting a spurt of articles detailing experimentation with peyote by non-Indians as well as those arguing for prohibiton without benefit of any scientific investigation.[17]

Hearing and reading reports and articles and results of scientific investigations, Congressmen began to agree that the federal government should ban the cactus. Consequently, Congressman H. L. Gandy of South Dakota and Senator W. H. Thompson of Kansas introduced bills in 1916 "to prohibit the traffic in peyote, including its sale to Indians . . . ."[18] That year and every year thereafter through 1919, Congressmen defeated peyote prohibition

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[17]Larry E. Burgess, "The Lake Mohonk Conferences on the Indian, 1883-1916," unpublished Ph.D. dissertation, Claremont Graduate School, 1972, pp. 322-323; Mrs. Delevan L. Pierson, "American Indian Peyote Worship," The Missionary Review of the World, March, 1915, pp. 201-206; Gertrude Seymour, "Peyote Worship: An Indian Cult and a Powerful Drug," The Survey of May 13, 1916, pp. 181-184' Arthur C. Parker, "The Perils of the Peyote Poison," American Indian Magazine, V (1917), pp. 12-13; Rev. Lyman Abbot, "The Menace of Peyote," American Indian Magazine, V (1917), pp. 134-136; Minutes of the Conference of Friends of the Indians, "The Peyote Question," American Indian Magazine,VI (1918), pp. 67-71; Indian Rights Association, "Peyote -- An Insidious Evil," pamphlet, Ayer Collection, Newberry Library, Chicago.

[18]Bureau of Indian Affairs Classified Files, Box 1, National Archives, Washington, D.C.

bills, as well as similar bills in 1924, 1926, and 1937.

Lack of congressional action little deterred Indian agents such as "Pussyfoot" Johnson, Charles Shell, Henry Larson, and Commissioner of Indian Affairs Cato Sells. They continued to keep track of peyotists traveling to Corpus Christi "for the purpose of entering Mexico to obtain a supply of Peyote,"[19] and advised each other on ways to hinder or stop peyote traffic as a letter from Sells attests:[20]

> . . . Two cases have been instituted in the Federal Courts with a view of determining judicially whether peyote comes within the provisions of the Act of January 30, 1897 (19 Stats., 506) making it an offense to furnish to Indians 'any article whatsoever under any name, label or brand that produces intoxication.' In both instances the cases have gone against us so that it will be necessary to procure legislation broader than suggested by you in order to deal with this matter.
>
> There are now two bills pending in Congress, one introduced by Congressman Gandy of South Dakota dealing directly with the prohibition of the traffic in his article, and the other introduced by Senator Thompson of Kansas seeking to amend the Harrison Drug Act so as to include peyote. While I realize fully the need for positive action to prohibit the traffic in this article and its use by the Indians, yet, until Congress enacts further legislation, I am very much handicapped in taking any effective measures.

19Letter from W. H. Wisdom, Superintendant, at Cantonment, Oklahoma, to the Commissioner of Indian Affairs, March 10, 1916, BIA Classified Files, Box 1, National Archives.

20Letter from Cato Sells to the Honorable John J. Esch, House of Representatives, February 28, 1917, BIA Classified Files, Box 1.

The second was addressed to Larson:[21]

> . . . Your letter was just what I wanted and was illuminating and instructuve. I had serious doubts about the "intoxicating" feature, but as a "tea" was made which caused considerable exhileration I caused warrants to be issued for Rave, who introduced the buttons and their use to the Chippewas, and for Joe Butterfly, who was associated with Rave.
>
> I think the better charge would be for sending the stuff through the mail contrary to Section 217.

Although peyote opponents seemed to have entertained "serious doubts" about validity and legality of charges they made, they determined to press lesser charges in order to destroy the religion.

As opponents of the peyote religion would use any means at their disposal to hinder the practice of that faith, so also would they turn to other forums to gain their objective of prohibitory legislation when they failed in Congress. State governments became the next suppression source for Indian agents, church officials, the Society of American Indians, the Indian Rights Association, and the Women's Christian Temperance Union. They succeeded in their objective when Utah, Colorado, and Nevada adopted laws prohibiting peyote in 1917. Kansas legislators followed three years later and lawmakers in Arizona, Montana, and North and South Dakota joined in 1923. Iowa

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[21]Letter from Alfred Jaques, United States Attorney, St. Paul, Minn., to Henry A. Larson, March 4, 1919, BIA Classified Files, Box 1.

enacted a ban on peyote the next year and New Mexico and Wyoming passed prohibitory legislation in 1929. In the 1930's both Idaho and Texas enacted such legislation.22

Continually harassed by federal and state officials, Peyotists persisted in the practice of their religion. They little understood state opposition to their religion, particularly when anthropologist friends and their own leaders told them that the federal government, through the first amendment to the United States constitution, guaranteed everyone's freedom of exercise of his religion. They wondered what the furor was all about. Those properties of peyote which federal and state governments as well as private organizations and indiviuals feared as harmful -- hallucinogenic properties -- appeared to peyotists as an essential part of a supernatural sacrament -- the very means by which they might achieve communication with the Great Mystery. To them, peyote was a gift from God -- a divine gift to Indians, alone, to enable them to achieve a sense of unity with the supernatural as well as with all of the natural world, a unity many Indians believed they had lost with the loss of their land and traditional way of life.

While Peyotists wondered at the ways of a dominant society that would deny a person's beliefs, they were

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22Slotkin, Peyote Religion, p. 56.

learning ways to circumvent or invalidate prohibitory laws. Peyotists were also recognizing a kinship among communicants from all tribes. A pan-Indian association, unstructured but vital and growing, brought together American Indians throughout the Plains devoted to the peyote religion. The first inter-tribal group associated with peyote -- "the Mescal Bean Eaters" -- was organized in 1906, at Winnebago, Nebraska. Although the Oklahoma Territorial Legislature had stated that year that "there would be no attitude against Indian use of peyote,"[23] Peyotists were drawing together for self-preservation. In 1909, they changed the name of their loose organization to the "Union Church," an accommodation to Euro-American religious patterns. The Union Church served Peyotists from Oklahoma to Nebraska and formed a network by which Peyotists could transport their sacrament legally from Texas dealers and fields northward.[24] Omaha Peyotists, the American Indian Brother Association, and the Kiowa United American Church formed similar societies.[25]

Organizing into pan-Indian associations with names calculated to please Euro-Americans seemed to improve their situation little. Governmental and private opposition

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[23]Rowlodge Interview, Duke Collection, T-247, p. 1.

[24]Slotkin, Peyote Religion, pp. 57-58.

[25]Labarre, Peyote Cult, p. 170.

continued unremittingly. Two aspects of the peyote religion antagonized opponents -- its use of peyote as a sacrament and its foreignness. One peyote leader, Jonathan Koshiway, an Oto, with the advice of an attorney, decided to utilize Anglo-American law to assure continuation of his nativist religion. Koshiway, the lawyer, and four hundred Peyotists incorporated their religious society at Red Rock, Oklahoma in 1914, with the name of "The First-born Church of Christ."[26] Few tribesmen, however, joined in this movement, preferring to remain independent. The First-born Church of Christ, as its named implied, embraced Christianity which few peyote groups accepted at that time. Koshiway's church emphasized the Christian Bible and the usual functions of a Christian church, including weddings, funerals, and baptisms as well as prayer services. The First-born Church of Christ used peyote in its ritual, but abolished other nativistic or traditionalistic practices.[27]

As harassment continued unabated with no regard for the name of the organization and as states enacted anti-peyote laws, Peyotists and their advisors sought relief through constitutional protection. They knew that they had the status of United States citizenship. They listened to non-Indian friends who told them of constitutional pro-

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[26]Slotkin Peyote Religion, p. 58.

[27]LaBarre, Peyote Cult, p. 168.

tections or rights. They had determined to retain what remained of their traditions and tribal culture, and they had decided to unite in an inter-tribal organization to fight for their religion.

CHAPTER NINE

THE NATIVE AMERICAN CHURCH

During the summer of 1918, while the world anxiously awaited battle news of World War I, American Indian Peyotists from many tribes met to discuss a plan proposed by James Mooney, an anthropologist with the Smithsonian Institution. He suggested that peyote leaders insure the survival of their religion through United States law and the guarantees of the first amendment to the United States constitution.

Mooney was the Bureau of American Ethnology's specialist on peyote, working mainly with the tribes of the Kiowa Agency in Oklahoma. His findings contradicted the numerous journal articles published in the American Indian Magazine and other organs of reformist organizations such as the Indian Rights Association and the Society of American Indians. He described his own experience in a Kiowa peyote prayer meeting:[1]

> It possesses tonic and stimulant properties, and produces an especially wonderful mental effect, causing the eater while under its influence to live in an enchanted world of beautiful shapes, bright colors and sweet music, where care and pain are swallowed up in dreamy delight. A peculiar thing about it is that it produces no reaction, and that the subject, who

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[1]James Mooney, "The Kiowa Peyote Rite," "Papers on the Indians," The Edward Ayer Collection, The Newberry Library, Chicago, 1889, p. 329.

never loses consciousness, can come out from its influence almost at will.

Mooney's investigation into the peyote religion and his subsequent actions to aid Indian Peyotists in protecting their religion stirred up a controversy that continued even after the Bureau of American Ethnology demanded his return to Washington and an end to his research among the tribes of the Kiowa Agency. In 1919 and again in 1920 the Smithsonian Institution requested that Mooney be allowed to return to Oklahoma to complete his studies concerning peyote, but the Bureau of Indian Affairs, the Indian Rights Association, and the Lake Mohonk Conference leaders remained adamant that Mooney be barred from further study in Oklahoma. Mooney never finished his work among the Kiowas, nor did he publish his notes.[2] Kiowa Peyotists, however, have never forgotten him, praising him sixty to seventy years later for his insight, understanding and assistance.[3]

The Society of American Indians had started the article writing furor with an attack against the peyote religion in an article entitled "Drug Induced Religion,"[4]

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[2]Slotkin, p. 55; Bureau of American Ethnology File 2537, "James Mooney, Peyote," Smithsonian, Washington, D.C.

[3]Donald Chaino, 1978.

[4]"Drug-Induced Religion," The Quarterly Journal of the Society of American Indians, II (1911), pp. 99-101.

in 1911, followed by a number of articles in the American Indian Magazine in 1916, 1917, and 1918.[5] The Indian Rights Association sent out a pamphlet in 1918, entitled, Peyote -- An Insidious Evil, to support a national prohibition against peyote sponsored by Congressman Carl Hayden in a bill he had introduced in the House of Representatives -- House Resolution 2614 -- "Prohibition of Use of Peyote."[6] The pamphlet offered by the Indian Rights Association quoted from their Annual Report of 1916:[7]

> It is urged by the Indians who are addicted to the peyote habit that the drug is used in their religious ceremonies, and therefore no interdiction should be promulgated regarding its use, since such an effort would be to deny to the cult freedom of religion, in violation of the guarantee of the Constitution. If that view is accepted, any vicious practice or use of drugs which undermines the morals and health may be upheld with equal force if it is associated in any manner with so-called religious ceremonies.

The argument stated by the Indian Rights Association appears time and again throughout the history of opposition to the peyote religion, but it is not an argument brought to bear against the peyote religion, alone. Similar arguments could be heard during this period about the use of wine in the sacrament of the Holy Eucharist celebrated

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[5] American Indian Magazine, IV-VI.

[6] Peyote -- An Insidious Evil, pamphlet, Indian Rights Association, June 5, 1918, pp. 1-6.

[7] Ibid., p. 2.

by some Christian churches.

Mooney went to Washington to testify in hearings on H.R. 2614, giving evidence as an expert witness as he had on earlier occasions. His support of the peyote religion identified him as a troublemaker by opponents of the native religion. Chief Special Officer of the Indian Bureau Larson, Anadarko Agency Superintendent T.V. Stinchecum, Indian Rights Association officials, and Oklahoma missionaries including the Episcopal Bishop of Oklahoma united in a crusade to prohibit peyote and remove Mooney from Oklahoma, in which they succeeded. Mooney left Oklahoma in November, 1918, to return to Washington, but not before he had suggested the form and assisted Peyotists in chartering their religion in the state of Oklahoma.[8]

Mooney had suggested to Indian peyote leaders that they follow the practice of other Indian groups and organize their religion along lines similar to those of Anglo-American Protestant churches. Mooney directed their attention to other tribes who had made organizational changes as much as twenty years before the Oklahoma Peyotists.[9] Peyote leaders agreed to accept the organiza-

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[8]L. G. Moses, "James Mooney and the Peyote Controversy," The Chronicles of Oklahoma, LVI, No. 2 (Summer, 1978), pp. 142-143.

[9]Letter from James Mooney to Julia Prentiss, June 29, 1918, Box 2, Cheyenne-Arapaho Vice Files, Oklahoma Historical Society.

tional form of the First-born Church of Christ incorporated earlier by Jonathan Koshiway, but they rejected the name Koshiway had chosen. The peyote religion of the Southern Plains tribes needed a name expressive of inter-tribal solidarity rather than an indication of Christian doctrine. Mooney spoke forcefully at a meeting at Darlington urging assembled peyote leaders to realize that abatement of opposition depended upon their unity, organization analogous to Christian denominations, and an appropriate name.[10] After many meetings tribal delegates agreed on organizational form, the need to apply for a corporate charter from the state of Oklahoma and a name.

After many meetings during the summer and early fall, tribal delegates -- Mack Haag, Sidney White Crane, and Alfred Wilson for the Southern Cheyennes; Charles Dailey, George Pipestem, and Charles Moore for the Otoes; Frank Eagle and Louis McDonald for the Poncas; Ben Chaletsin for the Kiowa-Apaches; Herman McCarthy for the Osages; Kiowa Charley and Delos Lone Wolf for the Kiowas; Wilbur Peawa, Tennequah, and Mam Sockwat for the Comanches -- applied for and received a charter from the state of Oklahoma. Alfred Wilson, Louis McDonald, Delos Lone Wolf, Herman McCarthy, and Tennequah signed the charter for all American Indian Peyotists and filed it for record in Oklahoma City on a

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[10]Jess Rowlodge, T-235, Duke Collection; Boyd, Kiowa Voices, p. 105.

rainy Thursday afternoon. The incorporators and other delegates chose a name expressing inter-tribal solidarity -- The Native American Church -- and listed as officers of record for incorporation papers: President, Frank Eagle; Vice-President, Mack Haag; Secretay, George Pipestem; and Treasurer, Louis McDonald.[11]

Tribal delegates had hoped that a state charter would grant them guarantees of freedom of religion under the first amendment of the United States constitution. Incorporating the church in Oklahoma proved inadequate, however, in halting opposition to the peyote religion as criticism and denunciation were national. Indian agents, missionaries and ministers, women's groups, and assimilationists united their efforts to forbid the sacramental consumption of peyote by Indians. Consequently, leaders of the Native American Church of Oklahoma determined to attain legal sanction through charters in all states in which peyotists lived and practiced their religion. Peyote leaders hoped that individual charters in each state would stop confiscations, prohibitory laws, and general harassment.

Nebraska granted a charter in 1921 to the Peyote Church of Christ, amended to Native American Church in 1922, as the second state to sanction the peyote religion,

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[11]LaBarre, Peyote Cult, p. 171.

followed by South Dakota in 1922 to the Native American's Church of Allen, changed to Native American Church of South Dakota in 1924. South Dakota Peyotists incorporated their churches individually rather than uniting under one state charter: Native American Church of Charles Mix County, 1922; Native American Church of St. Charles, 1924; Native American Church of Rosebud, 1924; Native American Church of Wasabaugh County, 1928; Native American Church of St. Francis, 1935; Native American Church of Buffalo County, 1935; Native American Church of Porcupine, 1936; Native American Church of Sisseton, 1939; and Native American Church of Norris, 1939. Peyotists in North Dakota, Montana, Idaho, Colorado, Wisconsin, Iowa, New Mexico, Utah, Arizona, and Texas succeeded in their efforts to gain recognition and legal sanction through state charters in the next thirty years. In 1944, Peyotists amended the name to the Native American Church of the United States, Oklahoma. With the incorporation of the Saskatchewan Native American Church of Canada in 1954, a national organization took the name of the Native American Church of North America.[12] Peyotists have organized in seventeen states and incorporated in those states and Texas, the only state in which peyote grows wild. The national organization with its seventeen affiliates stated its purpose in its Articles of Incorpora-

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[12]Slotkin, Peyote Religion, pp. 60-63.

tion as follows:[13]

> The purpose of this Church shall be to foster and promote religious belief in Almighty God and the customs of the several tribes of Indians throughout North America in the worship of a Heavenly Father; to promote morality, sobriety, industry, charity and right living; and to cultivate a spirit of self-respect and brotherly love and union among the members of the several tribes throughout North America . . . .

Oklahoma provided fertile territory from which a national church might grow. Oklahomans dominated the leadership of the national organization until well into the 1950's, although a split developed between those Peyotists who perceived a need for a national organzation and those devoted to state interests -- a disunity which has remained into the 1980's, dividing Peyotists into the Oklahoma Conference of Native American Churches, the Native American Church of Navajoland, and the Native American Church of North America.

Each of the divisions of the Native American Church enlists the aid of officers and delegates. The Oklahoma Conference has approximately nineteen chapters, although some Native American Churches prefer to remain aloof from the state organization. Some tribes have only one chapter, such as the Kiowas, while others have several -- the Cheyennes have five -- and some tribes have chapters which

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[13]Articles of Incorporation of the Native American Church of North America, Article 2.

have joined the Oklahoma Conference and other chapters which have a separate charter. The Oklahoma Conference is governed by a President, Vice-President, Secretary, Treasurer, Sergeant-at-Arms, and a board of trustees numbering five elders of the Church.[14] Each member chapter sends two delegates to triannual meetings. The Oklahoma Conference has its central office in El Reno. Every chapter has its own constitution, charter, and by-laws. Non-delegates are welcome to visit meetings of the Conference and present their position but only delegates may vote.[15]

Most of the Native American Church chapters have joined the Native American Church of North America with members throughout the western half of the United States, Canada, and Mexico. The officers of that organization consist of a President, Vice-President, Treasurer, Secretary, and Editor. Delegates attend annual meetings. The leadership of the Native American Church of North America usually remains within Northern Plains tribes, although a Navajo has been President.[16]

While Oklahoma tribes have provided few recent leaders

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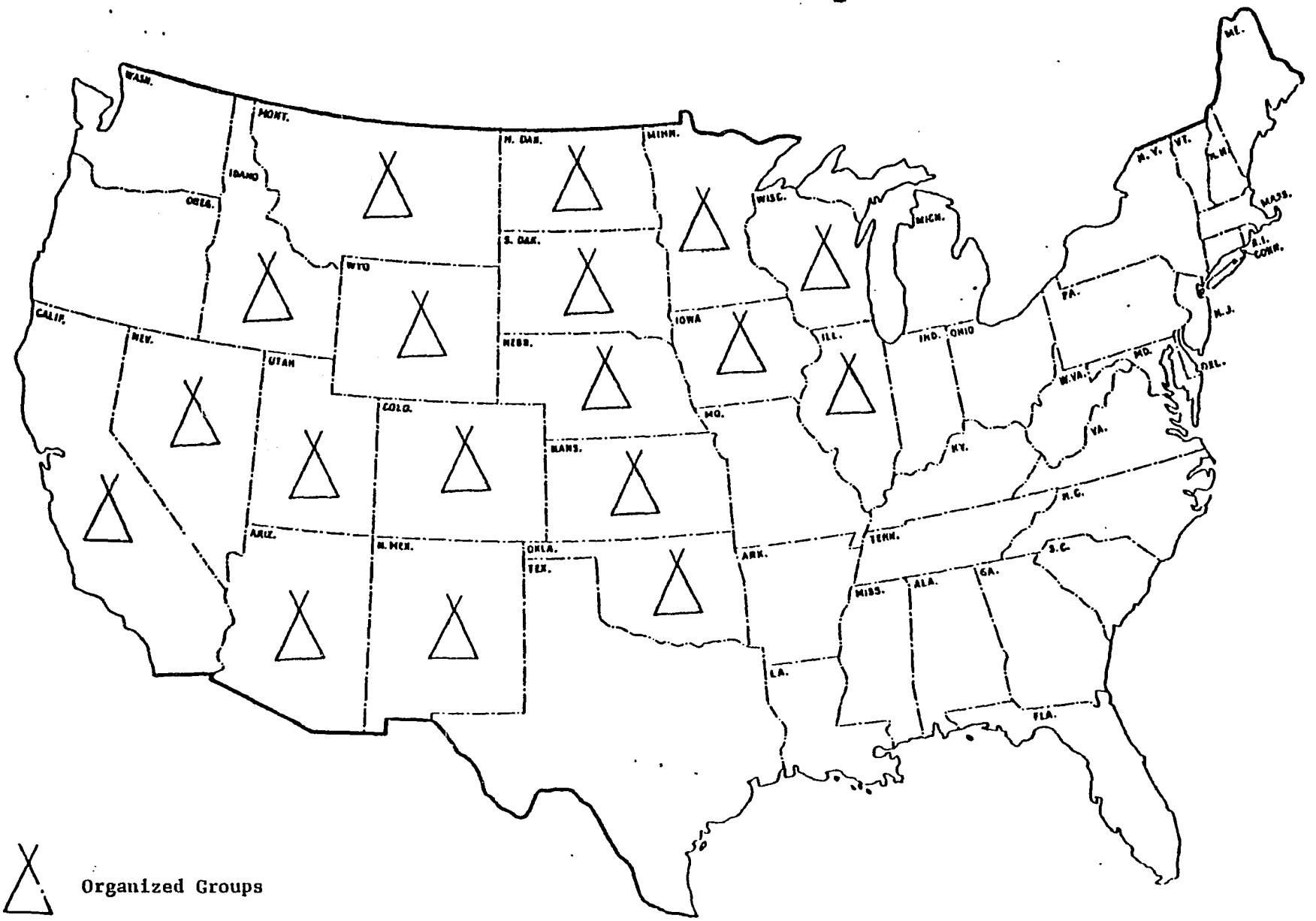
[14]Donald Chaino, December, 1978.

[15]Chaino, March, 1978.

[16]"Statement," Adopted at the Thirty-fourth Annual Conference of the Native American Church of North America, June 17-19, 1983.

Native American Church Groups In The U. S.



Organized Groups

Source:
NATIVE AMERICAN CHURCH OF NORTH AMERICA

of the national organzation, they accounted for most of the leadership in earlier days. Jonathan Koshiway, an Oto from Oklahoma, provided the organizational form for the chartered organization through the Church of the First-born he had founded. He later left the Church of the First-born to become a leader in the Native American Church.

Most members of the Native American Church recognize and revere the name of Quanah Parker, a Comanche from Oklahoma. Kiowas respect him for bringing the peyote religion to them. Many Kiowas accept Quanah as bringing the religion to Tone-a-skawt (Snapping Turtle) who became a powerful peyote leader among the Kiowas who call the religion "Se-nay," the Peyote Road.17

Osages frequently greet Caddos with a grateful reminder that a Caddo -- Nishkuntu (Moonhead) -- brought the peyote religion to them. Nishkuntu had received peyote buttons with an admonition to try them from a Comanche. Doing so, he experienced visions which he considered holy revelation. In his visions he saw particular designs which he later utilized in the altar design and ritual associated with his name. During his initial consumption of peyote, Nishkuntu sought the power of peyote as a teacher. He received a vision in which he saw a "Road" he would follow all his life which he interpreted as leading from the empty

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17Boyd, pp. 103-105.

grave of Christ to the Moon in the Sky. His name Niskuntu or Moonhead came from this vision. He believed that with the assistance of Grandfather Peyote he would be able to follow this "Road" through its power and teachings, increasing his knowledge. Further visions revealed peyote songs. A gift of peyote songs to be sung in peyote prayer meetings is important since songs may be shared but a song revealed to a peyotist through a vision is recognized as a sign of divine knowledge. Nishkuntu shared his altar design and songs with other tribes in addition to the Osages. He took the peyote religion to Shawnees, Senecas, Quapaws, Delawares, and Potawatomis.[18]

Nishkuntu's influence extended to healing. He had been a herbalist long before he first received peyote and continued to heal with traditional methods as well as peyote.[19] This remembrance illustrates the importance and influence of Nishkuntu as a healer among the Osages:[20]

> . . . her grandmother told her that her grandfather was a sick man and he wanted this Moonhead to come over and pray for him and administer this peyote to him and pray for him because he was such a sick man . . . and they went over to where Moonhead was staying at that time . . . . And he was such a great man, and they were so awed in his presence that they immediately took Mrs. Russell, she was a very tiny baby on a

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[18]LaBarre, Peyote Cult, pp. 153-159.

[19]Lyman Kionute, personal interview, March 6, 1980; Francis Gunn, personal interview, March 14, 1980.

[20]Katherine Maker, Doris Duke Collection, T-341-B.

> board. They placed her on his lap. He spoke to her. He blessed her. And said that she would grow up to be a grown woman, an older woman. And he done, what we call, blessed her with all the great things in life, hoped that she would grow up that way, and she did. She is living today. And she contributes all that to this blessing she received from this great man. And so, Moonhead did go and visit her grandfather. And he done as they asked him to do. Her grandfather recovered a few years afterwards. He lived a very good life afterwards for a while and naturally he passed away . . . .

Nishkuntu shared his vision of peyote ritual with several tribes, among them the Delawares. A member of that tribe by the name of Elk Hair established a peyote "fireplace" based on Nishkuntu's ritual and altar design with several differences based on his own initial experience with peyote. Elk Hair had been ill and had eaten peyote which he believed had cured him. Although he agreed with Nishkuntu in rejecting the Christian Bible, Elk Hair denied all Christian elements in his peyote prayer meetings until he lost most of his followers.[21]

John Rave introduced the peyote faith to the Winnebagoes after a visit to Oklahoma in 1893-1894. His own experience was such that he became an immediate convert to the new religion. He had been a drunkard and felt that peyote showed him the way to temperance and peace. At first he had frightening visions, but after eating more

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[21]Vittorio Lanternari, The Religions of the Oppressed: A Study of Modern Messianic Cults, trans. by Lisa Sergio. New York: Alfred A. Knopf, 1963, pp. 80-81.

peyote, he saw a vision he interpreted as God, his d .sed wife and his children. Grateful for the changes in his own life, Rave returned home to share the peyote religion with his tribe. As others before him, he claimed that peyote had shown him his true self.

Other Winnebagoes came after Rave. Albert Hensley, educated at Carlise, changed the direction of the Winnebago peyote religion by introducing a Christian element. Hensley interpreted the Christian Bible through his peyote visions. Another Winnebago, Jesse Clay, proselytized Winnebagoes and other tribal members in an effort to make the peyote religion universal among Indians. Clay became the first president of the Native American Church of Nebraska and Winnebagoes have consistently been among the leadership of state and national Native American Church organizations.[22]

Many leaders arose in the early days to direct various rituals of peyote prayer meetings which united to form the pan-Indian association incorporated as the Native American Church. Other branches or prayer groups formed without the aid of a charismatic leader. A powerful local leader, establishing his own ritualistic version of the peyote religion, made little difference in the enthusiasm and diffusion of the Native American Church. While the

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[22]Paul Radin, "The Peyote Cult of the Winnebago Indians," Journal of Religious Psychology (1914), pp. 8-9.

dissemination of the peyote religion depended more on an Indian need for supernatural aid and less on charismatic leaders, those leaders and their organizations provided needed assistance whenever representatives of the dominant society opposed their religion.

While Carl Hayden's bill in the House of Representatives failed passage, several states enacted peyote prohibition legislation. In those states Peyotists, with or without state charters for their churches, confronted a growing realization that opponents of the Native American Church would have to be fought in the courts of the several states. Peyotists were learning that state charters in some states diminished the rate of harassment, confiscations, and arrests for possession of peyote. Officials in other states , however, ignored the presence of state charters for Native American Churches and continued to consider possession of peyote for religious purposes illegal.

In the early 1920's opposition against Indian religion dominated the thinking and policy of the Bureau of Indian Affairs, the Women's Christian Temperance Union, the Indian Rights Association, the Society of American Indians, and other reformist organizations. These groups differentiated hardly at all in their view of native religions, perceiving all of them as detrimental to their goal of total assimilation and acculturation of American Indians into the

dominant Euro-American culture. But it was also this decade which saw the creation of a "Purity Crusade," a movement which influenced congressional legislation to present a constitutional amendment to prohibit "the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes."[23]

A crusade to prohibit alcoholic beverages hardly limited itself to alcohol, alone, but included other mind-altering substances. In 1921, police arrested a Uintah-Ouray Indian named Lone Bear for peyote possession in violation of a Colorado statute prohibiting peyote. The Colorado state legislature had enacted that law after substantial lobbying by the Parent-Teachers Association, the Women's Christian Temperance Union, the National Mother's Congress, the Ministerial Alliance of Denver, and at least a dozen local women's organizations.[24]

The 1920's signaled a move from legislative action and incorporation of Native American Churches to the court-

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[23]Constitution of the United States, Amendment XVIII (proposed December 18, 1917, declared ratified January 29, 1919, repealed by the twenty-first amendment.)

[24]David Aberle and Omer C. Stewart, Navajo and Ute Peyotism. University of Colorado Studies, Series in Anthropology, No. 6. Boulder: University of Colorado Press, 1957, p. 6.

room. While legislative action would continue to influence the battle for recognition of the validity of the peyote religion the main arena would be in federal and state courts.

CHAPTER TEN

TRIAL OF THE FIRST AMENDMENT

During November, 1924, police in Hardin, Montana, arrested a Crow Indian by the name of Big Sheep for possession of peyote. Montana Peyotists had neglected to charter their religion in the state of Montana but did so the following year. Apparently Montana Peyotists had been unaware until Big Sheep's arrest that the state legislature had enacted a law prohibiting possession of peyote.[1]

Montana law enforcement officers had arrested Big Sheep on the Crow Reservation and the question of jurisdiction took precedence over validity of the defendant's religion. Montana Supreme Court Justice Llewellyn L. Callaway heard the case and dismissed it, but not before the Court ruled that the Montana Constitution guaranteed the "free exercise and enjoyment of religious profession and worship" as long as the religion did not "justify practices inconsistent with the good order, peace, or safety of the state, or opposed to the civil authority thereof . . . ."[2]

The court declined Big Sheep's offer to prove his membership in the Native American Church and their usage of

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[1]Omer C. Stewart, "Peyotism in Montana," Montana, the Magazine of Western History, XXXIII, no. 2 (Spring, 1983), p. 11.

[2]Montana Constitution, Article 3.

peyote:[3]

> . . . for sacramental purposes only in the worship of God according to their belief and interpretation of the Holy Bible, and according to the dictates of their conscience; and that peyote is never used by members of that church except in the worship of God.

The court decided only the question of jurisdiction but pointed out that it "was clearly in the power of the legislature to determine whether the practice of using peyote is inconsistent with the good order, peace, and safety of the state."[4] The court distinguished, as was common at the time, between a constitutional right to a religious belief and a state right to regulate or prohibit practices associated with that religious belief. Big Sheep and other Montana Peyotists were free to believe, but not free to practice their religion, a dilemma which had confronted Mormons when the United States Supreme Court had made a similar distinction in 1878 concerning their practice of polygamy.[5]

With a firm precedent set in earlier Mormon cases differentiating between religious belief and practice, Big Sheep's attorneys, the firm of Guin and Maddox of Hardin, Montana, could only assist Crow and Northern Cheyenne

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[3]State v Big Sheep, 75 Montana, 225-226, 243 P. 1068 (1926).

[4]Ibid., 243, p. 1073.

[5]Reynolds v United States, 98 U.S. 145 (1878).

Native American churches to incorporate their religion under the laws of Montana and hope that action would satisfy the superintendant of the Crow Agency -- Calvin H. Asbury -- and Montana legislators and law enforcement officers.[6]

Assuming he had peyote traffic under control in Montana, Crow Agency Superintendant Asbury turned his attention to Wyoming where peyote possession was legal. Asbury succeeded with Wyoming legislators in convincing them to prohibit peyote while keeping Wyoming Peyotists unaware of his actions. In 1929, two Crow Indians traveled to Sheridan in an attempt to gain legal sanction for the Native American Church. Barney Old Coyote and Holman Ceasely sought advice from Sheridan attorneys for possible court action. Wyoming lawyers advised caution and restraint.[7]

Restraint was difficult to maintain when Deputy Special Officer John B. Shieve arranged to arrest Montana and Wyoming Peyotists as they received a shipment of peyote from Oklahoma. Shieve reported the incident to the Chief Special Officer:[8]

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[6]Stewart, "Peyotism in Montana," p. 12.

[7]Ibid., p. 12.

[8]Letter from John B. Shieve to L. C. Mueller, BIA, February 24, 1937, Letters Received, Crow Agency, Record Group 75, National Archives, Washington, D.C.

> . . . I was Deputy Special Officer on both the Crow and Tongue River Reservations. Superintendants Hyde and Centerwall wanted me to make a peyote case and see what could be done regarding the transportation and use of peyote on the Reservations, which they thought was getting to be a menace to the Indians of both the Crow and the Northern Cheyenne Tribes.
>
> On about May 1, 1933, Superintendant Centerwall received information that four Cheyenne Indians from the Tongue Reservation had left for Arizona to bring back a load of peyote which was to be divided between the Crow and Tongue River Indians.
>
> On May 16, 1933, I received information from Supt. Centerwall that the Indians had left Arizona for home some three or four days before and he wanted me to see if I could meet them at Sheridan, Wyoming, before they reached the Reservation. I took Tom Medicinehorse, Indian police, and went to Sheridan the afternoon of May 16, 1933. We located the Indian car, of which I have the license number with trailer attached, carrying about 1000 lbs. of peyote. As I had been instructed to make the case on transportation, I watched the car until they left town, followed them on the highway some four or five miles, stopped the car, put the occupants, who I found to be -- James Woodpecker, Sam Weaselbear, Walks Along and Mr. and Mrs. Black Wolfe, under arrest, returned the prisoners and the load of peyote to the County jail where I turned the prisoners and the load of peyote over to Sheriff William T. Harwood.
>
> The next day, May 17, 1933, Supt. Hyde and myself went to Sheridan, Wyoming, and arraigned [sic] the defendants, all except Mr. Black Wolfe, who was released, in district court, charged with unlawfully transporting peyote into the state, to which charge they pled guilty and were sentenced by Judge James H. Burgess to six months in the county jail. The Indians employed an attorney and a hearing was held, at which both Supts. Hyde and Centerwall and myself attended, in the court room at Sheridan, Wyoming, on May 30, 1933, at which time the defendants were all released from jail.

Caution, restraint and state charters of incorporation for Native American Churches had less success in changing federal and state policy than an event over which Peyotists had no control. In 1932, the American people elected

Franklin Delano Roosevelt president of the United States. His election brought new priorities which reversed a large part of then existing federal Indian policy. Harold Ickes as Secretary of the Interior and John Collier as Commissioner of Indian Affairs sought to preserve American Indian traditions and customs. They discarded the federal concepts of cultural uniformity, assimilation and acculturation, and embraced a reinstitution of tribal governments, ceremonies, art, languages, and religions. One of the first acts the new Commissioner of Indian Affairs implemented was the formulation of the Indian Reorganization Act, the Wheeler-Howard Act of 1934. One important part of that Act provided that American Indians could request federal assistance against state abuses more easily than in previous years.

With this change in federal policy, Native American Church leaders initiated attempts to repeal or amend state statutes prohibiting peyote. Members of the Native American Church had requested and received charters of incorporation in almost all states where Peyotists resided and practiced their religion. These charters provided a base from which to request repeal or amendment of anti-peyote laws.

With the change of attitude in the Buraeu of Indian Affairs, a federal agency previously known for its adamant stance on assimilation, some states began to reassess their

position on the alleged dangers of peyote used as a religious sacrament. Oklahoma had omitted an anti-peyote law from the 1908 General Statutes and had never reinstated it. In 1935, Utah also omitted a previously enacted anti-peyote law, followed by Iowa in 1937. Montana and New Mexico amended their anti-peyote statutes to allow its use in a religious service.[9]

Although members of the Native American Church succeeded in several states in having specified laws against peyote deleted or amended, by 1940, a number of state legislators began passing laws classifying peyote as a narcotic and placing restrictions on its use, possession, and transportation. By 1940, Utah, Wyoming, Colorado, New Mexico, Texas, Kansas, and Nebraska had placed peyote in a classification with narcotic drugs.[10]

As several state governments were classifying peyote as a narcotic, Congress passed a federal food, drug, and cosmetic act in 1938. Section 502 of that act referred to peyote and allowed interstate shipment of the plant if

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[9]Slotkin, Peyote Religion, p. 56.

[10]Letter from Fred H. Daiker, Assistant Commissioner of Indian Affairs, to F.A. Gross, April 5, 1940, BIA Classified Files, Box 3, Part 6, National Archives, Washington, D.C.

marked: "Warning -- may be habit forming."[11] The Bureau of Indian Affairs emphasized that there existed at that time no federal law prohibiting or regulating either use or sale of peyote. Almost ten years later, in 1947, the then Acting Commissioner of Indian Affairs stated: ". . . this department is not convinced that peyote is such a dangerous article that it should be the subject of legislation prohibiting its sale to Indians."[12]

Apparently some confusion existed between federal officials in the Bureau of Indian Affairs, United States Congressmen, and the Department of Health, Education, and Welfare, and state legislators as to the proper classification of peyote. No federal law existed then or now prohibiting the use of peyote in bona fide religious ceremonies of the Native America Church. The Department of Justice and the Secretary of Health, Education, and Welfare both issued regulations identifying peyote as having a potential for abuse but both provided an exemption from restrictions for Native American Church members.[13]

Congressmen attempted to clarify confusing issues in

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[11]Letter from John W. Finch, Acting Assistant Secretary of the Interior, to the Postmaster General, October 9, 1939, BIA Classified Files, Box 3, Part 5, National Archives, Washington, D.C.

[12]Letter from the Acting Commissioner of Indian Affairs, August 7, 1947, Bureau of American Ethnology File 32893, Smithsonian Institution, Washington, D.C.

[13]21 CFR, 320.3; 21 CFR 166.3 (c) (3).

regard to the legality of peyote. In 1937, Senator Denis Chavez of New Mexico introduced a bill to prohibit interstate commerce of peyote[14] and Representative Carl Hayden continued to introduce bills in the House to ban all possession of peyote. Representative Hayden stated his argument and that of other opponents of peyote:[15]

> The idea of making an intoxicating drug the basis of a religion is preposterous. One might as well use the sacrament as an excuse for drinking a gallon of wine to become intoxicated. This talk of religion is all a subterfuge. It is a bold attempt to perpetuate under the guise of religion the use of a drug that ought to be prohibited.
>
> Even if we assume that the people are sincere in their religion, yet, the indiscriminate use of Peyote for the cure of disease in young and old cannot but be harmful. Careful investigation reveals that converts are not by the religious concepts promulgated, but by the cure of disease.

Representative Hayden apparently found the juxtaposition of healing and religion more offensive than the simple usage of a plant with admitted hallucinogenic qualities but no proven capacity of intoxication, in that Peyotists retain mental control.

Opposition to American Indian insistence on tribal identification and retention of traditional values and

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[14]Bureau of American Ethnology File 2537, "James Mooney, Peyote," Smithsonian Institution, Washington, D.C.; 75th Congress, First Session, February 8, 1937, S1399.

[15]Letter from Benjamin Gitlitz, M.D., Indian Service, to Dr. J.R. McGibony, August 9, 1944, quoting Carl Hayden, BAE File 32893, Smithsonian Institution.

customs coupled with American Indian resistance to assimilation and acculturation mounted to new heights with the resignation of Commissioner of Indian Affairs John Collier on January 10, 1945. The pendulum swung back to governmental insistence on assimilation, forced if necessary. In 1946, Congress established the Indian Claims Commission before which all tribes having a claim against the federal government could present their case prior to ending the special trustee relationship between the United States government and the tribes. The Indian Claims Commission was only the first step in a planned effort to end finally the uniqueness of American Indian status. Without choice, they would be like everyone else -- one more ingredient in the "Melting pot." As Barney Old Coyote had stated seventeen years earlier: "You have killed our game, you have substituted your civilization for ours until we have only one right -- and that one right is embodied in the constitution of the United States. It is the right of adoring God."[16] But a question worried many -- peyotists and their friends -- if they had a right to worship God or the Great Mystery did they have a right to worship the Supreme Being in their own way?

Fearing that the answer to that question would be negative as Native American Church members confronted

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[16]Denver Post, March 16, 1929.

additional regulation aimed at the destruction of their religion and aware of a United States Supreme Court case -- Cantwell v. Connecticut,[17] in which that court had ruled that each person held an absolute right to believe while no one had an absolute freedom to exercise or practice his religion, Peyotists and their friends requested the assistance of non-Indian anthropologists. In November, 1951, Science, published by the American Association for the Advancement of Science, printed a "Statement on Peyote," written and submitted by five well-known anthropologists. This article set forth their belief that peyote is a sacrament in an American Indian religion. Each of these anthropologists -- Weston LaBarre, Sol Tax, David P. McAllester, James S. Slotkin, and Omer C. Stewart -- had researched and written extensively on the peyote religion. Each of them had participated in peyote prayer meetings and offered their own experiences with peyote to prove its lack of narcotic action and its non-addictive quality.[18]

While worrying about the actions of the federal and state governments, Peyotists faced another group of opponents. In some tribes traditional spiritual leaders opposed the new Native American Church, seeing in that

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[17]Cantwell v. Connecticut, 310 U.S. 296 (1940).

[18]Weston LaBarre, David P. McAllester, James S. Slotkin, Omer C. Stewart, and Sol Tax, "Statement on Peyote," Science, CXIV (July-December, 1951), pp. 582-583.

religion a threat to spiritual customs of ancient times. Tribes which had used peyote ritually and for healing from time immemorial had little difficulty accepting the Native American Church, although, in some cases tribal members who had accepted Christianity disapproved of peyote.

Among the Winnebagoes, John Rave continually contended with hostility from conservative members of the tribe who thought that the Native American Church departed from the teachings of their ancestors -- an error which could have only disastrous results:[19]

> This medicine is one of the four spirits from below, and for that reason it is a bad thing. These spirits have always longed for human beings; and now they are getting hold of them. Those who use this medicine claim that when they die they will be only going on a journey. But this is not true; for when they eat this peyote, they destroy their spirits, and death to them will mean extermination. If I spit upon the floor, the sputum will soon dry up, and in a short while, nothing will remain of it. So it will be with death. I might go out and preach against this doctrine; but it would really be of no avail; for I certainly would not be able to draw more than one or two people away from this spirit. Many will be taken in by this medicine; they will not be able to help themselves in any way. The bad spirit will certainly seize them.

In the Southwest traditional spiritual leaders at Taos Pueblo questioned the wisdom of their people accepting the peyote religon. Kiva leaders entered a peyote prayer meeting and punished those present. A schism of the tribe

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[19]Radin, p. 18.

resulted which was healed only when Peyotists agreed to place their religion as an adjunct to ancient customs and beliefs.[20]

Navajos also considered the Native American Church inimical to their traditions initially. In 1940, the Navajo governing body passed an ordinance prohibiting peyote. Assistant Secretary of the Interior Oscar Chapman duly approved the ordinance as well as those of the Tribal Councils of Pine Ridge (Lakota) and Jicarilla (Apache).[21] At this time Peyotists preferred to meet secretly rather than challenge the ordinance. By 1959, however, the Lakota and Apache ordinances had been rescinded and Navajo members of the Native American Church thought themselves strong enough to initiate suits in United States federal court to have the Navajo law declared unconstitutional on grounds of abridgement of the first amendment. The first Navajo peyote case went to trial in an Arizona court wherein the judge declined to hear the case noting that the Arizona court had no jurisdiction over a Navajo Tribal Council.

In the second suit eight Navajos and the Native American Church of North America sued the Navajo Tribal Council and its chairman in New Mexico in an attempt to

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[20]John Major Hardy, American Indian Religions. Los Angeles: Sherbourne Press, 1970. pp. 138-139.

[21]Letter from Theordore H. Haas, Chief Counsel to Commissioner William A. Brophy, August 19, 1946, BAE File 32893, SMithsonian Institution.

repeal the restrictive law. The Navajo members of the Native American Church stated in their case that the actions of the Navajo Tribal Council abridged their religious freedom which was unconstitutional. Dismissing the suit, the district court ruled that it had no jurisdiction over the Navajo Tribal Council. On appeal the case was once again dismissed the court stating:[22]

> . . . neither, under the Constitution or the laws of Congress, do the Federal courts have jurisdiction of tribal laws or regulations even though they may have an impact to some extent on forms of religious worship.

Frank Takes Gun, president of the Native American Church of North America, decided against appealing the ruling of the Tenth Circuit Court on the advice of the American Civil Liberties Union. Instead of appealing, the Native American Church of North America on behalf of the eight Navajo members of the church filed a new suit in District court of the District of Columbia against Fred Seaton, individually and as Secretary of the Interior in July, 1960. The complaint requested that approval by the Secretary of the Interior of an anti-peyote ordinance be revoked.[23] In a

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[22]Native American Church v Navajo Tribal Council (1959, CA 10 N.M.) 272 F2d 131.

[23]United States Senate, Hearings Before the Subcommittee on Constitutional Rights of the Committee of the Judiciary, 87 Cong., 2 Sess., Pursuant to S. Res. 260, Y4, J892: In 2 5/pt. 3. Washington: Government Printing Office, 1963, pp. 553-556.

sequel to the earlier Navajo Peyotists' cases against their Tribal Council, Navajo members of the Native American Church brought another suit against the Secretary of the Interior in the same District court. In this case the Navajos alleged that a section of the Code of Indian Tribal Offenses, prohibiting peyote, was unconstitutional and the Secretary had unlawfully approved that section. This specific section had been approved in 1940 by then Acting Secretary of the Interior Chapman and had been superceded by a later Secretary's approval of a Navajo Tribal Council ordinance against peyote in 1959. The Navajo Native American Church lost its case in that the Supreme Court denied them a hearing.[24]

While Navajo Peyotists fought tribal ordinances within the Navajo reservation a Navajo living off the reserve at Williams, Arizona was arrested when police arrived at her home to arrest a drunken Indian. He directed the police officers to notice that Mary Attakai had peyote in her posession. Judge Yale McFate heard her case in Coconino County Superior Court on July 25 and 26, 1960, after the local judge had disqualified himself. Judge McFate, after some study and reflection, ruled that the Arizona law prohibiting the use of peyote in a religious ritual was

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[24]Oliver v Udall (1962) 13 App DC 212, 306 F2d 819, cert den 372 US 908, 9 L Ed 2d 717, 83 S Ct 720.

unconstitutional. In his ruling he stated:[25]

> First, the only significant use made of peyote is in connection with Indian rites of a bona fide religous nature, or for medicinal purposes.
>
> Second, there are no harmful after effects from the use of peyote.
>
> Third, it is not a narcotic, nor is it habit forming.
>
> Fourth, the practical effect of the statute outlawing its use is to prevent worship by members of the Native American Church, who believe the peyote plant to be of divine origin and to bear a similar relation to the Indians -- most of whom cannot read -- as does the Holy Bible to the white man.
>
> The manner in which peyote is used by the Indian worshippers is not inconsistent with the public health, morals, or welfare. Its use, in the manner disclosed by the evidence in this case, is in fact entirely consistent with the good morals, health, and spiritual elevation of some 225,000 Indians.
>
> It is significant that many States which formerly outlawed the use of peyote have abolished or amended their laws to permit its use for religious purposes. It is also significant that the Federal Government has in no wise prevented the use of peyote by Indians or others.
>
> Under these circumstances, the court finds that the statute is unconstitutional as applied to the acts of this defendent in the conduct and practice of her religious beliefs.

Subsequent to this decison the Arizona statute remained, unconstitutional or not. The Native American Church in Arizona requested a charter in that state which was denied in 1970. Peyotists took their case through District court and then to the Supreme Court. The Native American Church of Navajoland stated that the Arizona Corporation Commis-

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[25]Arizona v Attakai, Criminal N. 4098, Coconino County, July 26, 1960. The State's appeal to the Arizona Supreme Court was dismissed.

sion had denied them a certificate of incorporation and asked that that commission be enjoined from their refusal and also Navajo Peyotists asked that Arizona's laws against peyote be annulled for members of the Native American Church. The Supreme Court sent the case back to the appellate court with a notation that Arizona officials have refrained from arresting members of the Native American Church of Navajoland in bona fide religious services since 1966.[26]

Peyote possession, use, transportation and sale posed crucial questions or doubts for Native American Church members throughout the sixties, seventies, and eighties. While only state laws contain prohibitions against peyote, the legal issues reside within the guarantees and protection of the freedom of religion clause of the first amendment to the United States Constitution and the fourteenth amendment extending such protections to individuals from the states. State laws and local district or county officials have continued to prohibit the free exercise of American Indian religion while federal law has continued to guarantee freedom of all Americans to practice their religion. But that guarantee has never been absolute.

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[26]Native American Church of Navajoland, Inc., et al. v Arizona Corp. Commission. 405 US 901, 30 L Ed 2d 775, 92 S Ct 934.

The Supreme Court of the United States had stated clearly in its 1940 decision in Cantwell v Connecticut that a person's freedom to believe is absolute while his/her freedom to practice or exercise that belief is limited -- and limited by considerations of state interest. Yet, the Supreme Court limited the power of the states in such cases by stating: "In every case the power to regulate must be so exercised as not, in attaining a permissible end, unduly to infringe the protected freedom."[27] A new day was bringing changes in protection of religious freedom which came to fruition in the sixties.

In 1963, the United States Supreme Court decided a religious freedom case -- Sherbert v Verner -- in which the court found the defendant's religion burdened by a state regulation. The choice to be made was in balancing relative importance of religious practice on the one hand and the interest of the state on the other. The Court required the state to prove a "compelling state interest" to justify abridging a free exercise of religion. Henceforth, a state would have to prove a vital and paramount interest in order to infringe upon freedom to practice a religion.[28] With the decision of Sherbert v Verner Peyotists had a legal issue to aid the free exercise of

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[27]Cantwell v Connecticut, 310 U.S. 296 (1940).

[28]Sherbert v Verner, 374 U.S. 398-409 (1963), passim.

their religion.

While forcing the state to prove an interest of vital importance to vindicate abridging religious freedom protected in the first amendment, federal and state courts have decided Native American Church cases on the basis of several other issues wherein the burden of proof has been on religious practitioners. Religious freedom decisions have depended upon proof of the defendant's sincerity of belief, the nature of that belief, the status of that belief traditionally, religious organization, and organizational membership.

In the same year that the Supreme Court decided the case of Sherbert v Verner, a twenty-three year-old Navajo left his reservation for Los Angeles where, within a few months, police arrested him on a charge of narcotics possession when they found a peyote button in his pocket. The court assigned a public defender to aid Ned Lee Begay. The court-appointed attorney with the aid of American Civil Liberties Union attorney A. L. Wirin cited previous cases involving religious freedom. Judge Mark Brandler stated the major question in the case as: "Is the cactus peyote button the society-destroying narcotic California says it is?" Dr. Bernard Casselman testified to the non-addictive properties of peyote while Begay described peyote as a gift from God and used within sacred rites. After two weeks of testimony and rebuttal concerning the sacramental use of

peyote and its alleged danger to society, Judge Brandler acquitted Begay in California Superior Court of illegal possession of peyote, ruling peyote necessary to the practice of Begay's religion.[29] The Begay decision might well have ruled the reverse before the Sherbert v Verner case.

In the same year three young Navajos residing in California were arrested and convicted for possession of peyote. The three defendants had participated in a peyote ceremony far from any heavily populated area near Needles, in the California desert. The three men, including Dan Woody whose name titled the case, appealed their conviction. The California state Appellate Court upheld their conviction on grounds that peyote constitutes a threat to society even when used within the limits of religious services. The Court also stated that lawful use of peyote by a religion which has no rules of membership allows other segments of society to use it.[30]

The American Civil Liberties Union once again came to the aid of California Peyotists. Its attorneys took the case, People v Woody, to the California Supreme Court which reversed the decision of the lower courts. The Supreme Court held that the defendants had used peyote in a bona

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[29]Navajo Times (Window Rock, Arizona), June 27, 1963.

[30]Oklahoma City Times (Oklahoma City, Oklahoma), October 9, 1963.

fide pursuit of religious faith in a church incorporated in the state of California. The Court decided that prohibiting the use of peyote would result in a prohibition of the defendant's religion since peyote served as a sacrament and more:[31]

> Peyote constitutes in itself an object of worship; prayers are directed to it much as prayers are devoted to the Holy Ghost. . . . application of the statutory prohibition of the use of peyote results in a virtual inhibition of the practice of the defendant's religion.

The Court also addressed the question of a demonstrable state interest sufficiently serious to justify an abridgement of the defendant's right to free exercise of religion. The state of California failed to demonstrate to the court's satisfaction that peyote had a harmful effect on society or that the difficulty of enforcing the narcotics laws of the state would measureably intensify. In conclusion the California Supreme Court stated:[32]

> We know that some will urge that it is more important to subserve the rigorous enforcement of the narcotic laws than to carve out of them an exception for a few believers in a strange faith. They will say that the exception may produce problems of enforcement and that the dictate of the state must overcome the beliefs of a minority of Indians. But the problems of enforcement here do not inherently differ from those of other situations which call for the detection of

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[31] People v Woody, 61 Cal. 2d 716, 394 P 2d 813, 40 Cal. Rptr. 69 (1964).

[32] Ibid., 727, 394 P2d, 821, 40 Cal Rptr., 77.

> fraud. On the other hand, the right to free religious expression embodies a precious heritage of our history. In a mass society, which presses at every point toward conformity, the protection of a self-expression, however unique, of the individual and the group becomes ever more important. The varying currents of the subcultures that flow into the mainstream of our national life give it depth and beauty. We preserve a greater value than an ancient tradition when we protect the rights of the Indians who honestly practiced an old religion in using peyote one night at a meeting in a desert hogan near Needles, California.

In People v Woody the California Supreme Court indicated several salient points. The Court identified the Native American Church as a religion in terms of its similarities to Christianity. The opinion of the Court suggests that religions which approximate those of Christian services may receive approval while others may fail a test of religious validity. Another major point at issue in People v Woody is centrality of peyote in the worship practices of the Native American Church. In other cases courts have determined relative importance of forms of religious expression and judged them unnecessary to the survival of the religion, itself. Mormons have lost cases involving bigamy as religious expression[33] while Amish religious practices were upheld.[34] American Indians have seen religious claims dismissed by the courts when they

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[33]Reynolds v United States, 98 U.S. 145 (1878); Davis v Beason, 133 U.S. 333 (1890).

[34]Wisconsin v Yoder, 406 U.S. 205 (1972).

failed to prove centrality of practices.[35] Courts have guarded their authority to define "centrality."

On the same day that the California Supreme Court decided People v Woody, that Court heard another peyote case -- In re Grady. In this case the defendant had pled guilty to peyote possession and offered in his defense that he served as a "peyote preacher" and "way shower" for a community of six non-Indians. The Court referred to its decision in People v Woody as restraining the state from prohibiting the use of peyote in a bona fide religious service, but remanded this case for proof of sincerity and good faith. In the Grady case the Court ignored questions of centrality and confined itself to a question of the sincerity of belief.[36]

In re Grady illustrates a problem for Peyotists which occured in the sixties. While the prevailing mood of the United States permitted diversity of lifestyle and cultural plurality, concepts embodied in the Woody decision, non-Indians discovered peyote and other American Indian religions and customs and appropriated them for their own purposes which were frequently other than religious. Experimentation with various mind-altering substances

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[35] New Rider v Board of Education, 480 F. 2d. 693 (10th Cir.), cert. denied 414 U.S. 1097 (1973); Hatch v Goerke, 502 F. 2d 1189 (10th Cir. 1974).

[36] In re Grady, 61 Cal 2d 887, 394 P 2d 728, 39 Cal Rptr, 912 (1964).

caused much concern within the federal government. While peyote was a lesser problem than LSD -- d-lysergic acid diethylamide -- all hallucinogens were the subject of drug abuse legislation. In 1965 Congress enacted the Drug Abuse Control Amendments. For enforcement purposes the Department of Health, Education, and Welfare established the Bureau of Drug Abuse Control within the Food and Drug Administration. The House bill initially exempted peyote when used in bona fide religious services, but the Senate deleted it.[37] The Bureau of Drug Abuse Control required suppliers to keep records of drug sales, including peyote, and recommended that the various chapters of the Native American Church, rather than outsiders, keep their own records to prove their receipt of peyote. The Bureau preferred that one central church headquarters receive peyote shipments, although they could not enforce their suggestion.[38] In 1970, new drug abuse control amendments superseded the law of 1965.[39] Under the new law the Drug Enforcement Administration of the Department of Justice

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[37]Drug Abuse Control Amendments of 1965, P.L. 89-74, 79 Stat. 226; H.R. 2, 111 Congressional Record 14608-11 (1965).

[38]John Finlator, Director, Bureau of Drug Abuse Control, "The Law and the Government's Position on Peyote," June 25, 1966, Native American Church of North America Annual Conference, Wisconsin Dells, Wisconsin.

[39]Comprehensive Drug Abuse Prevention and Control Act of 1970, P.L. 91-513, 84 Stat. 1136 (1970).

interpreted the 1970 Act as refraining from prohibiting peyote in religious ceremonies of the Native American Church.[40]

While anti-peyote laws have been repealed in some states and federal regulations exempt peyote used in bona fide religious services from prohibition, Texas in a 1967 law prohibited possession of peyote. Members of the Native American Church commonly traveled to the Rio Grande valley to harvest the plant or to buy buttons of peyote from licensed dealers in the area. Prohibitive Texas laws made it dangerous to get peyote, since Texas is the only state in which peyote grows wild. In a 1969 test case, members of the Native American Church with an American Civil Liberties Union attorney won a judgement against Texas state law, which has now been amended to allow Native American Church members to purchase and transport peyote after registering with the State Department of Texas and identifying themselves with official cards.[41]

Four cases in the seventies have demonstrated that federal as well as state exemption to peyote prohibition for members of the Native American Church have had little

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[40]Hearings on H.R. 11701 and H.R. 13743 before the Subcommittee on Public Health and Welfare of the House Comm. on Interstate and Foreign Commerce, 91st Congress, 2nd Session, 117-118 (1970).

[41]Jess Rowlodge, T-169; Ray Blackbear, T-184-T, B; Oklahoma City Star (Oklahoma City), October 24, 1969.

impact on arrests for illegal peyote possession. In 1974, a Native American Church member experienced arrest, confiscation of his sacramental peyote, and a month's stay in jail. Thirty-one days after arrest Golden Eagle received a hearing on his religious sincerity. He appealed to the Ninth Circuit Court to have "good faith" hearings entered into peyote arrest procedures. Federal Court judges rejected his proposal, refusing to require police officers to confirm "good faith" prior to arrest, confiscation, and incarceration.[42]

That same year the Arizona Supreme Court decided a case affirming the validity of the Native American Church -- State v Wittingham -- in which the Court denied to review the appeal of the state of Arizona and supported the decision of the Court of Appeals of Arizona. The Court addressed two issues in Whittingham -- traditionalism and the organization status of the Native American Church. The Court stated: "Peyotism is an established religion of many centuries history . . . not a twentieth century cult nor a fad subject to extinction at a whim."[43]

On October 18, 1969, undercover agents from the Arizona Department of Public Safety arrested thirty or

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[42]Golden Eagle v Johnson, 493 F 2d. 1179 (9th Cir. 1974), cert. denied, 419 U.S. 1105 (1975).

[43]State v Whittingham, 19 Arizona App. 27, 504 P 2d 954 (1973), cert denied, 417 U.S. 946 (1974).

forty communicants at a Native American Church prayer meeting near Parks, Arizona. The religious ceremony in progress at the time of arrest blessed the marriage of defendants Janice and Greg Whittingham. Undercover agents had obtained an invitation to the wedding through subterfuge after hearing rumors of the impending ceremony. Dan Chee, a Navajo peyote leader, conducted the meeting in the usual Navajo fashion until narcotics officers surmised that all present had received some peyote. At that point the officers gave a pre-arranged signal for their cohorts to raid the religious service. Officers arrested most of those present, many of whom were enrolled Navajo tribal members who brought suit through their tribal legal aid service. The Court dismissed charges against the Navajos and tried those remaining defendants in the order of their appearance on the arresting information, Janice Whittingham being first named.

The state of Arizona sought to prove that the defendants were insincere in their religious beliefs on grounds of their lack of American Indian ancestry. Janice Whittingham testified that she was one-quarter Blackfeet Indian, and that proving degree of American Indian blood was irrelevant in any case because religion was not racially limited. Superior Court for Coconino County convicted the defendants who then appealed their conviction. The Arizona Court of Appeals reversed the lower

court's decision stating:[44]

> . . . the use of peyote during a meeting is a central force and the theological basis of peyotism. Peyote constitutes, in and of itself, an object of worship. Without it the sacraments of the Native American Church are obliterated . . . . The use of peyote in the bona fide pursuit of religious faith was constitutionally protected by the first amendment of the United States constitution which is binding on Arizona.

While Arizona officials recognized and quoted the California arguments against peyote prohibition for members of the Native American Church, Oregon officials have refused to grant any exemption from its narcotic laws to the Native American Church or its members in that state. A deputy sheriff arrested Roland Soto in 1973 for possession of peyote. A lower court as well as the Oregon appellate Court convicted Soto on grounds of legislative concern for the health and safety of the citizens of the state of Oregon which might be significantly endangered by the possession of peyote by a member of the Native American Church.[45] Courts in California and Arizona had address just such an issue and found the possession, transportation and use of peyote in bona fide religious services an insignificant danger if at all. Oregon disagreed.

A final case in the seventies -- Whitehorn v The State

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[44]Ibid., P 2d 954-55.

[45]State v Soto, 21 Or. App. 792, 537 P 2d 142 (1975).

of Oklahoma -- has brought out another aspect of the legality of peyote, the question of membership and membership controls of the Native American Church. In that case Whitehorn was driving a car in Enid, Oklahoma, on January 5, 1975, on his way to learn peyote songs from his father when an Oklahoma Highway Patrol trooper stopped him and charged him with several misdemeanors. Subsequently, police officers discovered that he was wearing a string of peyote buttons around his neck and carried other peyote buttons wrapped and tied in a handerchief inside his pocket. Police officers charged Whitehorn with the offense of carrying on his person a controlled dangerous substance -- peyote -- in violation of the Uniform Controlled Dangerous Substances Act of the State of Oklahoma.

At his trial Whitehorn testified that he was a member of the Oto and Ponca tribes and was a member of the Native American Church although he carried no form of identification as a member of the Native American Church or of his tribal affiliations. Although earlier court decisions had addressed possession of peyote, in Whitehorn v State the decision rested on a determination of who is a member of the Native American Church and what constitutes a "connection with a bona fide practice."[46]

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[46]Whitehorn v State 561 P.2d 142 (Okla. Crim. App. 1977).

> . . . the desirability of establishing membership rolls and using membership cards for the protection of the bona fide members of the Native American Church in possessing and using peyote in its religious ritual and to prevent non-believers from committing sacrilege against the church is a matter for the ultimate determination of the Board of Trustees of the Native American Church and the members thereof.

The Court of Criminal Appeals of the State of Oklahoma ruled that while it would be preferable for the Native American Church to issue membership cards to its members who wish to possess peyote outside of ceremonies this is not a legal requirement.

Native American Church members have fought a lengthy battle through state and federal courts to gain legal recognition and acceptance for their religion. Court decisions in California, Arizona, and Oklahoma have defined the nature of the peyote religion. Three cases have decided several important issues. A 1964 California case -- People v Woody -- addressed the important question of determining the validity of a religion. In particular, the California Supreme Court questioned sincerity, nature, and tradition of beliefs held by members of the Native American Church and its organizational form. The defendant answered the questions of the court satisfactorially. Almost ten years later the Arizona Court of Appeals asked the same questions and was satisfied with the answers offered. A 1977 case decided by the Oklahoma Court of Criminal Appeals addressed an additional question -- organizational member-

ship, and again, a court was satisfied. Courts in three states and the federal government, through an administrative exemption from federal regulations against possession of peyote for the Native American Church from the Department of Justice, have accepted the validity of the Native American Church as a religion to be protected by the United States constitution. And yet that protection has been limited. American Indians have experienced harassment, confiscations, incarcerations, and expensive court cases to prove repeatedly their religious sincerity in spiritual beliefs of longstanding tradition. Continuing opposition -- public and private -- to traditional American Indian religions as well as to the Native American Church have led many American Indians, ethnologists, anthropologists, historians, United States Senators and Congressmen to concede the failure of the first amendment to the United States constitution to protect the religious freedom of American Indians.

CHAPTER ELEVEN

THE AMERICAN INDIAN RELIGIOUS FREEDOM ACT

Acknowledging frustration but not total defeat in their attempts to protect Indian freedom to exercise their religions under the first amendment to the United States Constitution, Indian spiritual leaders and non-Indian legal advisors met with federal officials to determine a course of action. Traditional Indian leaders expressed concern that access to sacred sites, including cemeteries, had been hindered or barred , sacred objects had been confiscated, and wildlife conservation laws had denied or inhibited certain spiritual rituals. The Senate Select Committee on Indian Affairs conferred with Indian leaders in 1977 to determine the advisability of legislative action. Consequently, on December 15, 1977, the Senate Select Committee on Indian Affairs introduced Senate Joint Resolution 102. Committee members supported the resolution, as demonstrated by a statement from Senator Dewey Bartlett of Oklahoma:[1]

> We do not need to add continued violation of American Indian religious freedom to the long list of rights consistently abridged by the Federal government. It should be a relatively simple matter to

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[1]Senator Dewey Bartlett, American Indian Religious Freedom: Hearings on S.J. Res. 102 Before the Select Committee on Indian Affairs, 95th Cong., 2d Sess. 17 (1978), p. 7.

> establish a federal policy to preserve and protect Indian freedom of religion, and develop a new sensitivity to traditional Indian culture . . . .

Senator James Abourezk of South Dakota expressed a point at issue in several court cases involving peyote -- difficulty of the state or federal government in enforcing its regulations. Senator Abourezk stated:[2]

> Even the most ardent conservationist cannot match the need of traditional Indians for preserving eagles and hawks. For some plains Indians, much of their religion depends on the existence of these species. Yet, prohibiting the possession and exchange by Indians of feathers in one's family for generations, or the use of feathers acquired legally does not help preserve endangered species. It does prevent the exercise of American Indian religions. Although the enforcement problems create more difficult administrative issues and require more careful consideration of regulation changes in this area, it is possible to both uphold the intent of the laws and allow for religious freedom.

Less than a month later the Senate passed Resolution 102 by a voice vote.[3] Two days after Senate passage of the resolution a similar resolution, H.J.R. 738, introduced on February 14, 1978, was referred to the House Committee on Interior and Insular Affairs. In July, House Joint Resolution 738 came to the floor of the House for debate. Co-sponsor Morris Udall of Arizona, in defending the

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[2]Senator James Abourezk, Senate Report No. 95-709, 95th Congress, 2d Session (March 21, 1978).

[3]Congressional Record, CXXIV, S. 4590 (April 4, 1978).

resolution to his colleagues, stated:[4]

> It is stating the obvious to say that this country was the Indians' long before it was ours. For many tribes, the land is filled with physical sites of religious and sacred significance to them. Can we not understand that? Our religions have their Jerusalems, Mount Calvarys, Vaticans and Meccas. We hold sacred Bethleham, Nazareth, the Mount of Olives, and the Wailing Wall. Bloody wars have been fought because of these religious sites.

Then Representative Udall specified guarantees and limits of the resolution:[5]

> It is the intent of this bill to insure that the basic right of the Indian people to exercise their traditional religious practices is not infringed without a clear decision on the part of Congress or the administration that such religious practices must yield to some higher consideration.

Representative Udall had soothed any fears Congressmen might have that Indian religions -- both beliefs and practices -- would have absolute freedom. The following day the House of Representatives passed House Joint Resolution 738 by a voice vote, and on July 27 the Senate agreed to the House amendments by another voice vote.[6] On August 11, 1978, President Jimmy Carter signed the American

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[4]Representative Morris Udall, Congressional Record, CXXIV, H. 6842 (July 18, 1978).

[5]Ibid.

[6]Congressional Record, CXXIV, S. 11988 (July 28, 1978).

Indian Religious Freedom Act stating:[7]

> I have signed into law S.J. Res. 102, the American Indian Religious Freedom Act of 1978. This legislation sets forth the policy of the United States to protect and preserve the inherent right of American Indian, Eskimo, Aleut, and Native Hawaiian people to believe, express and exercise their traditional religions. In addition, it calls for a year's evaluation of the Federal agencies' policies and procedures as they affect the religious rights and cultural integrity of Native Americans.
>
> It is a fundamental right of every American, as guaranteed by the First Amendment of the Constitution, to worship as he or she pleases. This act is in no way intended to alter that guarantee or override existing laws, but is designed to prevent government actions that would violate these Constitutional protections. In the past government agencies and departments have on occasion denied Native Americans access to particular sites and interfered with religious practices and customs where such use conflicted with Federal regulations. In many instances, the Federal officials responsible for the enforcement of these regulations were unaware of the nature of traditional native religious practices and consquently, of the degree to which their agencies interfered with such practices.
>
> This legislation seeks to remedy this situation.
>
> * * * * * *
>
> I welcome enactment of this Resolution as an important action to assure religious freedom for all Americans.

President Carter apparently reasoned that abrogation or abridgement of religious freedom of any citizen of the United States infringes on all.

The act, itself, implies or indicates four concepts. It affirms the validity of American Indian religions and a

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[7]President J. Carter, Signing Statement of S.J.R. 102, the White House, August 12, 1978.

right to protection of free exercise as well as the freedom of belief. The act also recognizes that federal and state officials have abused Indian freedom of religion. Finally, it instructs federal agencies to evaluate their programs and policies and to correct any regulations and common practices to bring them into compliance with the act.

The Task Force required in the act to oversee compliance of federal agencies and to make recommendations convened on April 2, 1979, to plan meetings, hearings, and consultations with federal agencies and tribal religious leaders and their legal advisors. Almost ninety federal agencies responded to Task Force requests for information and evaluation of their compliance with the American Indian Religious Freedom Act. Some federal agencies declined to participate in the action of the Task Force noting that they had no responsiblilities compatible with the objectives of the Task Force. Following consultation the Task Force made a number of recommendations in several areas -- land, sacred objects, and ceremonies.

The Task Force made its final report in August, 1979, stating:[8]

> The most critical aspect of past federal treatment of Indian religious activities, practices, and sacred locations is that abuses have for the most part

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[8]American Indian Religious Freedom Act Report, P.L. 95--341. Federal Agencies Task Force, Chairman, Cecil D. Andrus, Secretary of the Interior, August, 1979, pp. 7-8.

> arisen from ignorance or misunderstanding on the part of the non-Indian. This treatment exemplifies what can happen to a religious minority when its tradition is radically divergent from that of a majority in a society.

Indians had once assumed that they possessed freedom of religion under the first amendment to the United States Constitution. However, as the cases cited above, and others not mentioned, have shown Indian religions rarely have enjoyed the status of protected religions. Indians discovered that they had the freedom to believe but not the freedom to exercise their religions. While other religions such as Christianity and Judaism might enjoy protection under the Constitution, Indian religions were perceived by public and private sectors alike as pagan rites not to be dignified by an identification with religion.

The American Indian Religious Freedom Act purports to limit religious infringement by federal agencies but other governments and private organizations are unaffected by this legislation. The act applies only to federal activities and ignores actions by others, leaving the way open for further abuses by states and private opposition.

While the American Indian Religious Freedom Act directed a Task Force to recommend changes in existing federal policy to implement the philosophy and intent of the act, such policy alterations and regulations have been slow in coming. In 1979, Navajo Emerson Jackson, President of the Native American Church of North America, as a member

of an advisory committee to the Task Force, offered eleven items he thought should be considered in the implementation of the Act:[9]

> . . . the purchase or leasing of federal land in Texas where peyote grows so church members can harvest the sacrament peyote without having to pay for it.
> . . . exportation of peyote to Canadian Native American Church members.
> . . . recognition of the Native American Church and its sacramental use of peyote by the U.S. military service.
> . . . a clear definition of exemption for the Native American Church from the Drug Enforcement Administration regulations regarding peyote use.
> . . . permission to cut teepee poles in national forests.
> . . . respect for the sacred medicine man bundle, feathers and other religious items by customs patrol officials and by security officers at airports.
> . . . importation of peyote by church members from Mexico with justification the supply is needed in the U.S.
> . . . compliance by all states with the American Indian Religious Freedom Act, especially with regard to peyote possession and use.
> . . . tighter control of the peyote dealers by the Drug Enforcement Administration to avoid the misuse of peyote by non-church members.
> . . . reduction in price of peyote by the dealers.
> . . . recognition of the use of eagle feathers and other controlled birds' feathers for religious purposes.

To this date Native American Church officials wait. In 1981 the Native American Church of North America, at its annual conference, passed a resolution declaring that while the Task Force pursuant to the American Indian Religious Freedom Act had submitted a report to Congress in August,

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[9]Emerson Jackson, Navajo Times (Window Rock, Arizona), March 22, 1979.

1979, containing recommendations for administrative changes and other areas of possible Congressional action most of those changes had been ignored by the Administration and none of the suggested legislative proposals had been acted upon by Congress. The resolution further stated:[10]

> The administration's failure to carry through with its recommended and necessary administrative changes and legislative proposals has rendered the Amercian Indian Religious Freedom Act a nullity, which has left American Indian religious practitioners subject to the same infringements, and abuses at the hands of federal agencies . . . .

The resolution requested President Reagan to sign the pending Executive Order, left unsigned by the previous Administration, effecting administrative changes directed by the American Indian Religious Freedom Act and the Report of its Task Force. Having called upon the President to oversee administrative changes, the Resolution then asked Congress:[11]

> . . . to vigorously exercise its oversight obligations by immediately convening hearings to review the proposals for necessary legislation identified in the President's 1979 Report, and to enact all needed measures to preserve and protect the Indian people in the pursuit of religious rights and in the practice of traditional religions . . . .

Not content with petitioning both the executive and the

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[10]Native American Church of North America, Resolution No. 81-101.

[11]Ibid.

legislative branches of the federal government, the Resolution finally directed the United States Justice Department:[12]

> . . . to resolve the ambiguity surrounding the application and enforcement of the Native American Church interpretive exemption to the Controlled Substances Act listed at 21 C.F.R. 1307.31, by recommending to Congress that such provision be statutorily enacted in such a fashion that it clearly is applicable only to bona fide American Indian adherants to the sacramental religious use of peyote . . . .

While the Native American Church of North America has publicly stated that the American Indian Religious Freedom Act is "a nullity," some federal agencies have tried to implement the act. The Federal Bureau of Prisons, for instance, considers the act a directive to be followed and the United States National Park Service is negotiating possible harvesting of sacramental peyote by Native American Church members at Big Bend National Park in Texas. In contraposition, the Bureau of Indain Affairs has continued to evaluate its compliance only.[13]

The Fish and Wildlife Service of the Department of the Interior, in an effort to comply with the act, sent a Special Agent Tom Wharton, of the Division of Law Enforce-

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[12] Ibid.

[13] Letter from James H. Stevens, Acting Director, Office of Trust Responsibilities, Bureau of Indian Affairs, to Emerson Jackson, President of the Native American Church of North America, received June 10, 1981.

ment's Washington Office, to the 1981 annual conference of the Native American Church of North America. He presented departmental enforcement policy concerning migratory birds and eagles, including information on obtaining eagle feathers from the Service repository at Pocatello, Idaho. He particularly emphasized that American Indians can obtain permits which allow them to receive parts of dead eagles "for bona fide religious ceremonies." The Bald Eagle Protection Act and the Migratory Bird Treaty both contain provisions making selling, buying, trading, or offering to sell, buy or trade golden or bald eagles or migratory birds or their feathers illegal. American Indian articles used in religious ceremonies are included in the ban.[14] Wharton also stressed that American Indians can possess and trade protected bird feathers as long as they receive no compensation for the feathers, fees being allowable only for craftwork.[15]

While representatives of the Fish and Wildlife Service stated that they had "no intention of interfering with legitimate American Indian religious or cultural activi-

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[14]Minutes of the Thirty-Second Annual Native American Church of North America Conference, Rapid City, South Dakota, June 26-27, 1981.

[15]Fact Sheet, FS-2, June, 1981, Fish and Wildlife Service, Department of the Interior.

ties,[16] they did exactly that when Department of Interior officials broke into Indian homes in the summer of 1983 to confiscate eagle and migratory bird feathers.[17] Once again the burden of proof of sincerity and religious usage has been placed on Indians. By 1981 members of the Native American Church experienced fewer problems than formerly in their possession of peyote. Apparently, the peyote religion would be attacked through its use of ceremonial feathers.

Traditional Indian religions also experienced confiscation and litigation because of feather ownership, but perhaps more importantly, traditional religions faced barriers to sacred land sites or, in some cases, a lack of barriers to non-Indians during spiritual worship. On June 16, 1981, the Supreme Court declined to hear a case involving Navajo access to a sacred site -- Rainbow Bridge -- and non-Indian desecration of that site. The Tenth Circuit Court of Appeals had ruled that public interest outweighed Navajo religious interests in this case. The Navajos had requested exclusion of tourists during religious ceremonies; a request which the Tenth Circuit Court held would violate the establishment clause of the First

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[16]Letter from Galen Butabaugh, Acting Director, Fish and Wildlife Service, to Walter R. Echohawk, Native American Rights Fund, Received July 17, 1981.

[17]Douglas Long, President of the Native American Church of North America, personal interview, July 17, 1983.

Amendment.[18] A Cherokee case decided the year before the Supreme Court denial of hearing in Badoni presented a similar argument. In that case three Cherokee individuals and two Cherokee tribal organizations tried to restrain the Tennessee Valley Authority from flooding the valley of the Little Tennessee River which contained Cherokee burial grounds and other sacred sites.[19] Indian religions and actions brought under the American Indian Religious Freedom Act lost these cases suggesting that, indeed, the Congressional act supplementing the freedom of religion clause of the first amendment is a "nullity."

On April 21, 1982, the National Indian Youth Council, Inc. announced the formation of a campaign for Indian religious freedom. Indians and their legal advisors had realized that further action was necessary to insure Indian religious freedom. The stated purpose of the campaign is:[20]

> . . . is to bring to the public's attention, both Indian and non-Indian, the need to preserve and protect for future generations, traditional Indian religious beliefs and practices which are tied to the land. At the present time the federal decisions the result of which are the destruction of Indian sacred sites and the eradication of entire bodies of

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[18]Badoni v Higginson, 638 F. 2d 172 (10th Cir. 1980), cert. denied sub. nom. Badoni v Broadbent, 452 U.S. 954 (1981).

[19]Sequoyah v T.V.A., 480 F. Supp. 611 (E.D. Tenn. 1979).

[20]National Indian Youth Council, Inc., News Release, April 21, 1981.

> traditional beliefs. Predictably the impact on the local affected Indian communities from a social, cultural and religious point of view has been devasting.

One of the goals of the Campaign is:

> Revision of the American Indian Freedom of Religion Act passed in 1978 and ignored since that time so that it will become a meaningful instrument for the enforcement of this right.

The National Indian Youth Council which includes a staff of attorneys to litigate American Indian cases stated that they had been involved in Indian religious freedom cases for over two years and had witnessed desecrations such as Indian religious shrines destroyed by strip mining, cemeteries inundated by dam reservoirs and recreational lakes, and confiscations of treasured religious objects. They also reminded the American people that abridgement of Indian freedom of religion sets a precedent for further religious infringements.

Non-Indian supporters rallied to the campaign. Congressman Don Edwards, Chairman of the House Sub-Committee on Civil and Constitutional Rights stated:[21]

> The Bill of Rights guarantees to all Americans, including the First Americans, the unencumbered right to practice their respective religions. Not only does the desecration of these sacred sites blatantly violate First Amendment religious freedom guarantees, but it also upholds the non-Indian public's view of

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[21] Ibid.

> their right to use the land as their needs dictate, even at the expense of a people's religion. Ultimately when we denigrate another people's religion we denigrate ourselves.

Senator Edward M. Kennedy endorsed the Campaign for American Indian religious freedom in a lengthy statement for the press. He emphasized that proper respect is given routinely for western religious practices but not for native religions. He noted that at Rainbow Bridge tourists have unrestricted access to Navajo religious sites where they photograph sacred ceremonies. He pointed out that the T.V.A. in Tennessee arranged for proper reburial of human remains but allowed local museums to store American Indian remains as "archaeological relics" rather than release them to their families or tribes for reburial. In Oklahoma, he indicated, the Fish and Wildlife Service has protected an annual Easter sunrise service in the Wichita Mountains and maintains the site year long while American Indian sacred locations are ignored or desecrated. Senator Kennedy pointed out that while national interests can and should occasionally override religious practices ski resorts, tourist concessions, and recreational lakes scarcely seem to possess an "overriding national interest." He stated:[22]

> . . . I think it is simply wrong to ask individuals to surrender basic rights so that others can

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[22]Senator Edward M. Kennedy, Statement for Press Release, April 21, 1982.

> ski, swim or buy beer. We would be outraged if a church or synagogue was razed or a cemetery disturbed for these purposes. We should understand the equal outrage felt by Native Americans when their "natural sanctuaries" are threatened . . . .

Indians in the 1980's have filed suits attempting to restrain non-Indians from building ski resorts with ski lifts soaring over Hopi and Navajo sites of spiritual renewal rituals,[23] hiking trails with platforms cantilevered over Cheyenne and Lakota religious locations,[24] and recreational reservoirs inundating cemeteries of Northwestern tribes. Of these Indian religious freedom cases the courts have decided only one in favor of religious freedom.[25]

Agreeing that current legal actions and theories, particularly first amendment law and the Amerian Indian Religious Freedom Act, have served to establish religious practices of the dominant society but have only limited the free exercise of Indian religions, a group of Indian attorneys, theologians, and non-Indian attorneys and theologians met at Princeton University in December, 1983.

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[23] Badoni v Higginson; Navajo Medicinemen's Association v Block and Hopi Indian Tribe, et. al. v Block, 708 F. 2d 735 (1983), Cert. petition filed Nov. 17, 1983, U.S.L.W.

[24] Fools Crow v Gullet, 541 F. Supp. 785 (D.S.D. 1982) No. 82-1852 (8th Cir. May 10, 1983).

[25] Northwest Indian Cemetery Protective Association v Peterson, 565 F. Supp. 586 (N.D. Cal 1983) App. docketed, No. 83-2225 (9th Cir. July 22, 1983).

Speakers presented theories of change in the legal system or in American Indian usage of that system to improve their success in religious practice cases. Princeton presenters began a dialogue which has spawned conferences in Santa Fe, New Mexico in June, 1984, and a proposed conference at the Cook School of Theology in Tempe, Arizona in January, 1985.

While most legal action has centered on religious land locations, Indian Peyotists have also had continuing problems in four areas -- crossing the Mexican border with peyote, non-Indian organizations alleging religious use of peyote, simple possession of peyote, and an amendment to the Controlled Substances Act.

On April 6, 1983, Margarita Tsosie, Jake Chee, and Leo Tsosie, all Navajos, passed through the Mexican border and proceeded to the United States border check when United States officials noticed peyote plants in their pickup truck. United States Customs officials returned the three Navajos to the Mexican border stating they needed clearance from the Mexican health department before they could enter the United States. When the three Navajos requested clearance from the Mexican authorities they were arrested. Possession of peyote is considered illegal in Mexico as it is classified as a narcotic there. Two of the three Navajos were released by Mexican authorities when a Mexican judge accepted their statements that peyote is a religious

sacrament in the Native American Church.[26]

The predicament of the three Navajos demonstrates a continuing dilemma for members of the Native American Church. Texas landowners in peyote growing areas harvest peyote themselves and then sell it to Peyotists in stores. Many Peyotists consider harvesting peyote as a part of an overall religious ceremony -- a rite they can no longer perform without much planning. Consequently, several Native American Church chapters, mostly among Navajos, are negotiating a possible agreement with the Mexican government to permit their members to enter Mexico for the purpose of harvesting peyote legally.[27]

The Native American Church has recently had to confront the issue of non-Indian groups using peyote in group rituals -- the Native American Church of New York, not affiliated with the Native American Church of North America, and the Peyote Way Church of God. In both cases District Courts denied non-Indian groups a right to use peyote in a religious service, doubting the sincerity of the group, but at the same time upholding federal exemption of prosecution for peyote possession by members of the

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[26]Navajo Times (Window Rock, Arizona), April 27, 1983; ibid., May 18, 1983.

[27]Ibid., June 15, 1983.

Native American Church.[28]

Timothy Redbird, a Kiowa, arrested on other charges in July, 1983, carried peyote in a small velvet pouch. San Marcos, California, police charged him with a narcotics violation -- peyote possession. Municipal Court Judge Raymond Hall ruled that Redbird should be prosecuted for a felony, a finding with which Superior Court Judge Daniel Kramer disagreed. Prosecutors offered to dismiss the charges if Redbird would agree to enroll in a drug counseling program; an offer Redbird consistently refused, saying: "I would have to say that this is dope and it is bad. But I would be saying something against my church. Peyote is something that is sacred, and you don't just kick it around."[29] The offer made to Redbird, or one similar to it, has been made in other peyote cases as well as cases involving feathers used in peyote paraphernalia.

California Superior Court Judge Kramer dismissed the peyote possession charge against Redbird in March, 1984, ruling that peyote is a religious object protected by the first amendment. Judge Kramer based his decision on a twenty year-old California Supreme Court judgement which found peyote a religious sacrament central to the religions

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[28]Peyote Way Church of God v Smith, 556 F. Supp. 632 (Ninth Circ. Texas 1983).

[29]Times-Advocate (Escondido, California), March 28, 1984.

of the Native American Church.[30]

In 1983, the Native American Church of North America determined that an amendment to the Controlled Substances Act would be necessary to clarify sacramental use of peyote by members of the Native American Church in bona fide religious services. The Native American Church of North America proposed adding a paragraph to follow paragraph (29) of Section 102 of the Controlled Substances Act (21 U.S.C. 802). The new paragraph (30) would contain a definition of peyote including all of its derivatives with an exception for Native American Church members:[31]

> . . . such term does not include and shall not apply to the sacramental possession and use of Peyote by any American Indian or American Indian group as part of any traditional Peyotist religious practice, such as those observed by bona fide Native American Churches.

The proposal also stated that for the purposes of this paragraph the term "American Indian" or "American Indian group" should refer to members of federally recognized tribes. This addition to the proposal brought immediate outcries from Peyotists who are members of tribes terminated from federal recognition.

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[30] People v Woody.

[31] "Proposed Wording for Legislation," Native American Church of North America, presented to the National Congress of American Indians as a resolution, adopted October 14, 1983; presented to the National Tribal Chairman's Association, June 28, 1984.

Apparently the American Indian Religious Freedom Act has brought minimal improvement in recognition of the validity of American Indian religions and their right to legal protection. Peyotists and practitioners of other traditional Indian religions still have no guarantee of protection of their sacred objects. They still risk confiscations, arrest with lengthy stays in jail, and disruption of their spiritual ceremonies. Harassment from both public and private sectors still presents a real danger even though Peyotists usually win in court.

Respect for Indian customs, traditions, and religions is slow in coming. Non-Indians have noticed only the strangeness and differences. Members of the Native American Church have frequently been hesitant to correct misunderstandings, preferring to keep details of their beliefs and rituals hidden from non-Indian observers. Secrecy, however, may have provided some of the impetus for harassment. The ultimate success or failure of the American Indian Religious Freedom Act and the first amendment to the United States Constitution may well depend on a change in attitude on the part of Indians as well as the dominant society. While difficult, Indian spiritual leaders may have to learn to trust responsible courts with details of their spiritual activities, knowing that such testimony will be expunged from the record. Non-Indians can develop a tolerant attitude toward religious beliefs

and practices markedly different from their own and learn to value a pluralistic society.

CHAPTER TWELVE

ASSESSMENT

Why has American law failed to protect Indian religious freedom? The answer is deeply embedded in a combination of Medieval and Renaissance theories of rights, responsibilities, property and power, Puritan concepts of divine mission, and later Euro-American ideas of Manifest Destiny. Europeans carried to the New World notions of the rights of indigenous peoples they had developed during the Crusades. Exploratory expeditions from Roman Catholic nations brought with them a theory that non-Christian societies had no political or property rights and needed guardians to protect them. Further, such nations theorized that with the obligation of protection came power of the guardian over the dependent. Puritans carried a similar idea in their belief that God had given them a divine mission to establish the perfect state -- perfection which permitted no deviance. Theories of rights of indigenous peoples, property, power, and Puritan divine missions produced the concept of Manifest Destiny -- a theory which worked equally well against nations outside the United States as well as those within its boundaries.

Legal implications have emerged from these theories: a nation with power enough to become a protector of another can force its philosophies, legal and religious, on the

subjects. Several major United States Supreme Court decisions have demonstrated that the United States Congress holds that plenary power and particularly the 1871 Act which ended treaty-making between the United States and American Indian tribes.[1] From Johnson v McIntosh in which Chief Justice John Marshall argued a doctrine of international law that discovery gave European colonists ownership of that land they discovered, title to which passed to the United States at independence,[2] to an 1886 case -- United States v Kagama -- in which the Supreme Court held that the United States had the right to extend its laws to prosecute Indians on reservations under the Major Crimes Act of 1885,[3] to a Kiowa allotment case -- Lone Wolf v Hitchcock -- in which Congress enacted a bill superseding, and abrogating a treaty,[4] the United States has asserted its plenary power to change or nullify laws and treaties with American Indian nations. Plenary power is a matter of sovereignty, not justice or equity. "The sovereign sets

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[1]Appropriations Act of March 3, 1871, codified at 25 U.S.C., paragraph 71.

[2]Johnson v McIntosh, 21 U.S. (8 Wheat.) 543 (1823).

[3]United States v Kagama, 118 U.S. 375, 6 S.Ct. 1109, 30 L.Ed. 228 (1886); Act of March 3, 1885, Codified as amended at 18 U.S.C. paragrpahs 1153, 3242.

[4]Lone Wolf v Hitchcock, 187 U.S. 553, 23 S.Ct. 216, 47 L.Ed. 299 (1903).

the limits of its power."[5] Yet, plenary power is not absolute. The United States Constitution and the Supreme Court limit its exercise.

Since Congressional plenary power is predicated on a presumption that the sovereign United States is stronger that tribal sovereignties and that this strength allows the United States to legislate and enforce its own ethnocentric philosophy on weaker nations, American Indians realistically can expect legal recognition and acceptance of their customs, traditions, religious beliefs and practices only to a degree the American public, through its Representatives and Senators, perceives as consistent with its own interests.

Further, Congress has equated United States strength with superiority and tribal weakness with inferiority. Congress can act to restrain or to assist Indians exercising their customs and religions through its plenary power and has acted in ways both to restrain and to assist. Considering Indian customs and spirituality inferior to those of the dominant society, however, Congress has more often acted to hinder or suppress Indian religions. Indian religions are more than simply different from Christianity and Judaism -- to many non-Indians,

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5Donald Berthrong, Comment, "Native Land Relationships and the Frontier Experience," American Indian Historians Association, Chicago, Illinois, March 16, 1984.

native religious beliefs and practices are inferior.

Different or inferior, the Constitution of the United States affirms the privilege of all religions to exist and to "make no law respecting an establishment of religion."[6] Apparently, however, the United States Congress has made laws which suggest the establishment of a religion -- Christianity. Although Americans assume that the United States upholds its stated doctrine of separation of church and state, Americans have characteristically assumed that the United States is a Christian nation and view official recognition of Christian holy days -- most obviously Christmas -- and Christian shrines as constitutionally legal acts. In 1892, Supreme Court Justice David J. Brewer asserted: ". . . this is a Christian nation."[7]

Nation-wide acceptance of Christianity, even if only nominally, by the dominant society has affected and continues to influence the treatment of Indian spirituality, including the Native American Church, by state, local, and federal governments. Christianity and Judaism hold opposing views from those of Indian religions in several basic beliefs. Both Christianity and Judaism commemorate certain events in specific ceremonies throughout their religious year, such as the Advent season which begins the

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[6]Constitution of the United States, First Amendment.

[7]Church of the Holy Trinity v United States, 143 U.S. 457, 471 (1892).

Christian year, announcing the coming of the Messiah, rejoicing in His birth and Epiphany. At the same time, although shorter, Judaism commemorates Hannukah, or the Festival of Lights, having celebrated the beginning of their Jewish year with Rosh Hoshannah and Yom Kippur, the Day of Atonement.

Indian religions rarely commemorate past events in specific ceremonies held on set dates. Native spirituality centers on individual and communal, personal experience of the divine. Practitioners of traditional native religions as well as members of the Native American Church perceive spirituality as participation in a continuing creation, not merely observing but involved in a constant and consistent relationship with all other parts of creation. Christianity also emphasizes God's creation as a continuing process -- an uncompleted task.

The Christian position is that God as Holy Spirit will fulfill nature's potential in time, as long as humans refrain from destroying that creation. Christians, Jews and Muslims all accept Genesis as a valid account of creation and of God's purpose in creating. They believe, in varying degrees, the authors of Genesis when they posit God as Creator, separate and transcendent from His creation.[8] This concept of the transcendence of God mediated

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[8]John C. L. Gibson, Genesis, I. Philadelphia: The Westminster Press, 1981, p. 20.

through priests, differentiates the Hebrews from other middle Eastern religions of their time. For Babylonians and others in that region the Creator was within His creation. When Christianity, developed on an Old Testament base, spread throughout Europe and the New World its doctrine of divine transcendence conflicted with older, established religions whose practictioners, like the Babylonians, believed that God existed within His creation. Indian beliefs, like ancient European beliefs, have survived the confrontation of transcendence against immanence, but some Christian philosophers and theologians have derogated those beliefs as inferior to Christianity, as pagan cults and as heathenism.

The Book of Genesis posits another doctrine which conflicts with American Indian beliefs. Indians, traditionally and contemporarily, have believed that God, the Creator, humans and the natural world -- flora and fauna -- all function interdependently. Each contains within itself a part of the others. All creation, including the Creator, interrelate. As each shares in the other, each is mundane and each is sacred. The Creator has made all things, animate and inanimate, in the image of the Creator.

The authors of Gensis suggest that attendant upon a doctrine that God, the Creator, is transcendent is a corollary precept that God alone is sacred. Man alone was made in the image of the Creator. Nature is mundane and

God is sacred. Nature exists for the glory of God. While there can be little room for doubt that Genesis grants to man the right, even charges man with a goal, to dominate the earth and all its inhabitants, man must do so as God's agent. God has charged man to help nature accomplish its potential. Genesis suggests an important distinction between nature and humanity, but the gulf between them can be bridged.[9]

The New Testament and Christianity mark a change -- a further distinction between humanity and nature. In the Christian tenet that God became man humanity and nature are forever separated, God has elevated man to a position in His creation far above animal life. In this view Christians have argued that God created nature -- plants, animals, and inanimate objects -- for the use of man. While Jewish philosophers such as Maimonides have concluded that God created all beings for their own sakes, Christian theologians such as John Calvin described a man-centered world in which God created all things for man's sake.[10]

Doctrines of creation, its purpose in God's plan, man's place in that creation, the relationship between nature and man and the relationship between the Creator

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[9]Ibid.; John Passmore, Man's Responsibility for Nature: Ecological Problems and Western Traditions. New York: Charles Scribner's Sons, 1974, pp. 12-13.

[10]Ibid.

and His creation have structured major conflicts between Christianity, Judaism and native religions. American law, arising out of a Judeo-Christian, Greco-Roman heritage, offers little protection for religions based on premises contrary to those accepted by the dominant society. The history of the American Indian Religious Freedom Act illustrates an inability to protect such spiritual beliefs and practices. The Act remains a statement of federal policy only with no means for effective action.

Despite centuries of oppression Indians continue to practice their traditional religions with modifications and over 500,000 of them have accepted a twentieth century form of an ancient peyote religion.[11] Peyotists and practitioners of traditional native religions have suffered harassment, confiscations of sacred objects, barriers to sacred sites and desecrations, yet their spirituality endures. Traditional ceremonies and prayer meetings of the Native American Church fulfill spiritual and social needs of Indians. Ceremonies encourage social interaction within a tribe or inter-tribally. Those who have forgotten can recover their identity in spiritual gatherings. Whether American Indians return to their tribal identity or re-gain integrity through inter-tribal religious meetings, they

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[11]Douglas Long, "Practices and Problems of the Native American Church," presentation, Indian Religious Freedom and Law Conference, Santa Fe, New Mexico, June 21, 1984.

have found their needs fulfilled. Dr. Robert L. Bergman, a psychiatrist, has studied the effect of the peyote religion on American Indians and observed its beneficial effects on patients in difficult crises. He stated:[12]

> . . . it appears to me that for many Indian people threatened with identity-diffusion it provides real help in seeing themselves not as people whose place and way in the world is gone but as people whose way can be strong enough to change and meet new challenges.

The Native American Church, more than traditional tribal religions, answers a need for a unification beyond tribal limits. The Native American Church unites Peyotists from many tribes, emphasizing their affinity rather than their tribal differences. Inter-tribal movements to link disparate groups for civil and legal action have grown from the co-operation and harmony generated by the Native American Church.

Although some tribal traditionalists still perceive the Native American Church as threatening, others have accepted the peyote religion and have worked to forge a relationship which would allow them to utilize both forms of native spirituality. Navajos have begun a relationship between the Native American Church, in which peyote is used to diagnose an illness, and traditional Navajo ceremonials,

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[12]Oklahoma Journal (Oklahoma City, Oklahoma), May 17, 1971.

which are used to cure the disease.[13] Recently Navajos used the sacrament of the Native American Church to help find a lost daughter.[14] Peyote, in ancient usage, brought visions to those who sought a lost object, person, or community.

Many Indians and non-Indian investigators agree that alcoholism constitutes a major problem. Members of the Native American Church emphasize the value of peyote in fighting alcoholism. Many communicants of the Native American Church confess that they were drunkards before turning to the peyote religion to help them change their lives. Peyote and the Native American Church may succeed in treating alcoholism for several reasons. Some researchers suggest that peyote and alcohol are mutually antagonistic, chemically. Other investigators and Native American Church members reason that a return to old tribal customs, found in peyote prayer meetings, enables Indian alcoholics to free themselves of their psychological malaise engendered by a life style alien to ancient traditions. The Native American Church alleviates some of the possible

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[13]Sam D. Gill, Sacred Words: A Study of Navajo Religion and Prayer. Westport, Conn.: Greenwood Press, 1981, p. 177.

[14]Navajo Times, April 27, 1983.

causes for Indian alcohol dependence.[15]

Several alcohol rehabilitation centers have been established in areas with large American Indian populations. Eight such centers have been placed at Pawnee, Tahlequah, Tulsa, Miami, Bessie, Ada, Ponca City, and Shawnee in Oklahoma. At the Cheyenne-Arapaho Lodge Rehabilitation Center at Bessie members of the Native American Church hold peyote prayer meetings in a ceremonial teepee. These centers with the aid of the Native American Church offer an alcoholic the help of basic concepts of Alcoholics Anonymous coupled with Indian spiritual principles.[16]

The Native American Church survives because it fulfills American Indian needs, whether as an aid in fighting alcoholism or as a means of retaining traditional values. Despite continuing opposition the peyote religion attracts new members. The Native American Church bridges a chasm over which an Indian may walk, retaining his identity and integrity as he emerges into a new world of alien customs and values. The Native American Church urges a retention of traditional customs and ceremonies, while suggesting that they are no longer enough. Peyotists

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[15]Marcellus Williams, Presentation, Annual Meeting of the Association of American Indian Physicians, "Alcoholism and the American Indian," Chickasha, Oklahoma, August 10, 1976.

[16]Oklahoma Journal, March 4, 1973.

recognize a need for change if they are to survive as a people.

The Native American Church more than survives; it grows. Survival, however, has meant that the peyote religion as well as traditional tribal religions have adapted to the requirements of Euro-American society. Continued survival of Indian spirituality may necessitate further adaptations. The United States government has accommodated Indian religions to a greater or lesser degree throughout its history. Assimilationist attitudes have alternated with tolerance of cultural plurality.

As the United States prepares to celebrate the bicentennial of its Constitution, American Indians and their advisors consider ways to re-define underlying relationships between the United States and Indian tribes. They hope to find means by which American attitudes may change to sanction and even praise the nation's Indian heritage and the continued existence of the Indian tribes and their spirituality. Many of them advocate an emphasis on the value of diversity in American life. They direct attention to a image in which St. Paul describes the community of the faithful as one body with many different members, each of which is necessary for the good of the whole.[17]

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[17]I Corinthians, 12:24-26, Revised Standard Version.

> But God has so composed the body, giving the greater honor to the inferior part, that there may be no discord in the body, but that the members may have the same care for one another. If one member suffers, all suffer together; if one member is honored, all rejoice together.

American Indian spiritual and legal leaders pair a Madisonian concept of "multiplicity of interests" with the Pauline notion of a unified body composed of many diverse members, each necessary for the good of the whole.[18] James Madison wrote in the Federalist papers that a republic must guard the interests of one part of society "against the injustice of the other part." He praised the structure of a republican form of government for a geographically vast territory, arguing that a variety of interests would secure the nation against the tyranny of the few. He stated that one method by which the rights of the minority might be saved was:[19]

> . . . by comprehending in the society so many separate descriptions of citizens, as will render an unjust combination of a majority of the whole, very improbable, if not impractible.

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[18]Milner S. Ball, "Diversity in a Peaceable Kingdom: A Future for American Law and Indian Tribes," paper presented at the "Indian Law and Theology Conference, Princeton, New Jersey, December 15, 1983.

[19]Jacob E. Cooke, ed., The Federalist. Middletown, Conn.: Wesleyan University Press, 1961, Nos. 10, pp. 56-65 and 51, pp. 351-352.

> Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests and classes of citizens, that the rights of individuals or of the minority, will be in little danger from interested combinations of the majority.
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> In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign, as in a state of nature where the weaker individual is not secured against the volence of the stronger.

Madison's arguments have been largely forgotten regarding a nation safe from internal danger by virtue of its "multiplicity of interests." Attitudes which require conformity to an "American ideal" have more often reflected the philosophy of public and private interests. Such thoughts allow American law little chance to protect the religious freedom of any minority or divergent group.

Indians seek a context in which American law can function to protect Indian traditions, societies, customs, and religions, a context in which all Americans can perceive the value of diversity within unity. Only in a setting which promotes diversity, cultural plurality and a variety of customs, thought, and experiences will the Constitution of the United States be able to provide religious freedom for all its people -- Christians, Jews, Muslims, Hindus, Buddhists, Peyotists, and all the traditional native religions. Then American law can fulfill the promise of the Constitution.

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APPENDICES

Edict of 1620

We, the Inquisitors against heretical perversity and apostacy in the City of Mexico, states and provinces of New Spain, New Galicia, Guatemala, Nicaragua, Yucatan, Verapaz, Honduras, Philippine Islands, and their districts and jurisdictions, by virtue of apostolic authority, etc.

Inasmuch as the use of the herb or root called Peyote has been introduced into these Provinces for the purpose of detecting thefts, of divining other happenings, and of foretelling future events, it is an act of superstition condemned as opposed to the purity and integrity of our Holy Catholic Faith. This is certain because neither the said herb or any other can possess the virtue or inherent quality of producing the effects claimed, nor can any cause the mental images, fantasies and hallucinations on which the above stated divinations are based. In these latter are plainly perceived the suggestion and intervention of the Devil, the real author of this vice, who first avails himself of the natural credulity of the Indians and their tendency to idolatry, and later strikes down many other persons too little disposed to fear God and of very little faith. Because of these efforts the said abuse has increased in strength and is indulged in with the frequency

observed. As our duty imposes upon us the obligation to put a stop to this vice and to repair the harm and grave offense to God our Lord resulting from this practice, we, after consultation and conference with learned and right-minded persons, have decreed the issuing of the present edict to each of you, one and all, by which we admonish you and summon you to obedience by virtue of your holy submission (to the Church) and under penalty of anathema latae sententiae trina canonica monitione praemissa, and other pecuniary and corporal penalties within our discretion. We order that henceforth no person of whatever rank or social condition can or may make use of the said herb, Peyote, nor of any other kind under any name or appearance for the same or similar purposes, nor shall he make the Indians or any other person take them, with the further warning that disobedience to these decrees shall cause us, in addition to the penalties and condemnation above stated, to take action against such disobedient and recalcitrant persons as we would against those suspected of heresy to our Holy Catholic Faith.

Inasmuch as the said vice has been so widely introduced and practiced up to the present, as is well known, and as our intention is both to ban it, and to remedy this evil henceforth and to ease the conscience of those who have been guilty, we, desiring to act with consideration and enjoying the authority to do so bestowed on us by the

Most Illustrious Confessor of his Majesty, the Inquisitor General in all his realms and dominions, do hereby grant pardon and remission of all past sins in the said vice up to the day of the publication of this edict and bann; and we confer upon any confessor whatsoever, whether of the secular or the regular clergy duly approved by his Superior, the right and power to absolve from the said sin any person who may have committed it up to now, but with the proviso that this absolution shall not be extended to the future, nor (apply) to other misdeeds, abuses, sorcery and acts of superstition enumerated in the General Edict of the Faith, or in other decrees of this tenor that we have had posted as they shall remain in force and be observed. In order that the content of this letter may be brought to the knowledge of everyone and that no one may be ignorant of it, we order that it shall be published in every city, town and village of our district. Given in the Hall of our Court on the 29th day of June, 1620.

Licenciado D. Pedro Nabarre de Isla (Rubric)

Indian Peyote Use in 1919

The Office of Indian Affairs, under the direction of Cato Sells, sent out a circular to its agents dated March 28, 1919, stating:

> The office desires to obtain reliable and authoritative information to date as to the growth and present status of the use of peyote by Indians and the effects from such use.

Agency replies were as follows:

AGENCY	PERCENTAGE OF USE	REMARKS
Albuquerque Indian School	None	
Armstrong Male Academy	None	Peyote is not produced and is unknown in this section of the country.
Bishop Agency	None	
Blackfoot Agency	None	
Bismarck Indian School	None	
Camp Verde Indian School	None	
Campo Indian Agency, California	?	...peyote is not used among the Southern California Mission Indians of the Campo Indian Agency, as a rule...
Asylum for Insane Indians, Canton,		

South Dakota	None	
Cantonment Indian Agency, Oklahoma	?	...They do not use peyote. The exact percentage addicted to its use would be difficult to determine or state ...However I think most all the Cheyenne tribe at their so-called religious and other public gatherings use peyote to a large extent.
Choctaw Indians of Mississippi	None	
Coeur d'Alene Agency	None	
Colville Agency	None	
Colorado River Indian School	None	
Crow Agency, Montana	None	
Crow Creek Agency	None	
Cushman Indian School	None	
Euchee Boarding School, Oklahoma	Few	A few Euchees, no Creeks at present.
Eufaula Boarding School	None	
Fallon Indian School	None	
Flandreau Agency	None	
Five Civilized Tribes Agency	None	(Discrepancy, Euchee Boarding School.)
Flathead Agency	None	

Fond du Lac Indian School	None	
Fort Apache Agency	None	
Fort Berthold Agency	None	Used two years go, since discontinued.
Fort Hall Agency	None	
Fort Lapwai Indian School	None	
Fort Peck Agency	None	
Fort Totten Indian School	None	
Fort Yuma Indian School	None	
Grand Portage School	None	
Grand Rapids Agency, Wisconsin	35%	Winnebagoes receive it through the mail from J.L. Tingley, Anadarko, Oklahoma, and L.W. Tingley, Ponca City.
Greenville Agency	None	
Goshiute Indian Agency	None	
Havasupai Indian School, Arizona	?	Uncertain..
Hayward Indian School	None	
Hoopa Valley Reservation	None	
Jicarilla Agency	None	
Kaibab Paiutes	None	
Keshena Indian School, Wisconsin	3%	

Kickapoo Indian School, Kansas	40%	
Kiowa Indian Agency, Oklahoma	75%	
Klamath Agency	None	
Lac de Flambeau School and Agency	None	
Laona Agency	None	
Leupp Agency	None	
Leech Lake Agency, Minnesota	1/2 of 1%	
Lower Brule Agency	None	
Mackinac Indian Agency	None	
Malki Agency	None	
Mekusukey Academy	None	
Mescalero Agency	None	
Moapa River School	None	
Moqui Agency	None	
Navajo Indian Agency	None	
Neah Bay Indian School	None	
Nixon Agency	None	
Nevada school	None	
New York Agency	None	
Oneida Agency	None	Used briefly some years ago by outsiders.
Osage Indian Agency, Oklahoma	50%	Used exclusively in connection with

		religious services.
Otoe Indian Agency, Oklahoma	50% Males	
Omaha Indian Agency, Nebraska	90%	
Yankton Indian Agency, South Dakota	?	Used
Pawnee Indian Agency, Oklahoma	12-15-25%	Only used religiously.
U.S. Indian Industrial School	None	
Pima Agency, Arizona	Some	
Pine Ridge Agency, South Dakota	5%	
Pipestone School	None	
Ponca Indian Agency, Oklahoma	60%	
Potawatomi Agency, Kansas	100 Users	
Pueblo Indian Agency, New Mexico	?	Used only at Taos Pueblo
Pueblo Bonito Agency	None	
Red Cliff Agency	None	
Reno Indian Agency	None	
Rocky Boy Agency	None	
Rosebud Agency, South Dakota	Very Little	
Round Valley Agency	None	
Sac and Fox Indian School, Oklahoma	25% Sac and Fox 60% Iowa	

Salt River Indian School	None	
San Carlos Agency	None	
San Juan Indian School	None	
Seger Indian Agency, Oklahoma	80%	
Sells Indian School	None	
Shirwits School	None	
Seminole Agency, Florida	None	
Seneca School and Quapaw Agency, Oklahoma	Used by about 35 Quapaws	
Shawnee Indian Agency, Oklahoma	Some	
St. Michael's Mission, Wyoming	2% Shoshone and 13% Arapaho	Entirely religious.
Siletz Superintendency	None	
Sisseton Agency	None	
San Jacinto Agency	None	
Southern Ute Agency	None	
Spokane Indian Agency	None	
Standing Rock Indian School	None	
Taholah Indian Agency, Montana	None	
Tongue River Agency, Montana	35%	
Truxton Agency	None	
Tulalip Indian Agency	None	
Tule River Agency	None	

Umatilla Indian School	None
Ute Mountain Indian School	None
Vermillion Lake School	None
Walker River School and Agency	None
Warm Springs Agency	None
Western Navajo Agency	None
Western Shoshone Schools and Agency	None
White Earth Agency	None
Winnebago Agency, Nebraska	38%
Yakima Agency	None
Uintah and Ouray Agency, Utah	50%
Zuni Indian School	None

Circular 1522 and answering letters, Office of Indian Affairs, Department of the Interior, Bureau of Indian Affairs Classified Files, National Archives, Washington, D.C.

PUBLIC LAW 95-341
95th Congress

JOINT RESOLUTION
American Indian Religious Freedom.
Aug. 11, 1978
[S.J. Res. 102]

Whereas the freedom of religion for all people is an inherent right, fundamental to the democratic structure of the United States and is, guaranteed by the First Amendment of the United States Constitution;

Whereas the United States has traditionally rejected the concept of a government denying individuals the right to practice their religion and, as a result, has benefited from a rich variety of religious heritages in this country;

Whereas the religious practices of the American Indian (as well as Native Alaskan and Hawaiian) are an integral part of their culture, tradition and heritage, such practices forming the basis of Indian identity and value systems;

Whereas the traditional American Indian religions, as an integral part of Indian life, are indispensable and irreplaceable;

Whereas the lack of a clear, comprehensive, and consistent Federal policy has often resulted in the abridgement of religious freedom for traditional American Indians;

Whereas such religious infringements result from the lack of knowledge or the insensitive and inflexible enforcement of Federal policies and regulations premised on a variety of laws;

Whereas such laws were designed for such worthwhile purposes as conservation and preservation of natural species and resources but were never intended to relate to Indian religious practices and therefore, were passed without consideration of their effect on traditional American Indian religions;

Whereas such laws and policies often deny American Indians access to sacred sites required in their religions,

including cemeteries;

Whereas such laws at times prohibit the use and possession of sacred objects necessary to the exercise of religious rites and ceremonies;

Whereas traditional American Indian ceremonies have been intruded upon, interfered with, and in a few instances banned: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That henceforth it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.

SEC. 2. The President shall direct the various Federal departments, agencies, and other instrumentalities responsible for administering relevant laws to evaluate their policies and procedures in consultation with native traditional religious leaders in order to determine appropriate changes necessary to protect and preserve Native American religious cultural rights and practices. Twelve months after approval of this resolution, the President shall report back to Congress the results of his evaluation, including any changes which were made in administrative policies and procedures, and any recommendations he may have for legislative action.

Approved August 11, 1978.

NATIVE AMERICAN CHURCH OF NORTH AMERICA

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